

City Council Meeting Transcripts - 5/9/2013

[04:08:03]

>> Mayor leffingwell: Good, anding, I am austin mayor lee leffingwell. We will begin today with the revocation from the reverend adam t. Carrington, pastor of the ame worship center. Please rise.

>> Let us pray. Internal of all wise god, we come this day first and foremost to say thank you for your abundant grace, mercy and love. Today oh god our nation is full of strife turmoil and confusion. We ask that you extend your powerful hand and put a hedge of protection around us all so that no weapons formed against us shall ever prosper. God, we also understand that you are all knowing, all seeing and all powerful, so god help us all to understand that you and you alone know what is best, not only for our nation but for the wonderful city of austin, texas. So, god, we ask that you anoint by the who power of your holy spirit and eni do wisdom upon the mayor, mayor pro tem, all city councils and anyone who will make recommendations and vote on decisions on behalf of austin, texas. God have your way in this meeting, allowing your holy spirit to penetrate your hearts and minds of everybody here as they face the difficult challenges today, helping them to stay on task and reminding them that nothing is too hard for you. Dear god have mercy on us all, thus our nation, thus, the city of austin, and heal our land. In jesus name we pray. Amen.

>> Mayor leffingwell: Amen, thank you, pastor. Please be seated. Quorum is present so I will call this meeting all the city council to order at 10:09 a.M. At wednesday, may 9th, 2013. We are meeting at austin city chambers, 3301 east second street, city hall, austin texas. We begin with changes and corrections to today's agenda. And it is lengthy. Items 2, 6, 24, 25, 26, and 27 postponed until may 23, 2013. Item number 4, add the phrase "approve by the water and wastewater commission on a 5-1-1 vote with commissioner fishback voting against the item and commissioner grant recused, recommendation 201305-d18. Item number 5, add the phrase, unanimouslyrove by the water and wastewater commission on 7-0 vote. Recommendation number 20130508-d8. Item number 11, postponed until june 6, 2013. Items 37 -- item 37 is withdrawn and that should read at its time certain item number 51. Item 51 is not on the consent agenda. Let me check that. So amend that to say 37 and item 51 are withdrawn. Items number 39-44 will be set for a 7:00 p.M. Time certain. Item number 52, at its 2:00 p.M. Time certain, a postponement of this item until may 23rd will be requested. Items 55, 56, and 61, and their 2:00 p.M. Time certain a postponement of these items until june 6, 2013 will be requested. Items number 67 and 69 through 71 and 73 through 83 at their 4:00 p.M. Time certain, a postponement of these items until may 23, 2013, will be requested. Item 68 at its 4:00 p.M. Time certain, there will be a request to withdraw item 68. Item 74 is related to item 75, and item 75 is related to item 74. Our time certain items for today, we had two briefings scheduled. Both of these will be postponed until a later date as yet unspecified. At 12 noon, we will take up our zoning

-- at 12 noon we will take up our general citizen's communication, at 2:00 p.M. Are zoning matters, 4:00 p.M. Are public hearings and 5:30 we will have live music and proclamations and the musician is miranda gill and I will say just as an advisory that the council anticipates going into recess after citizens communication and executive session until 7:00 p.M. So the consent agenda for today is items 1 through 38, and I am going to read number 29 into the record. These are the nominations to the boards and commissions and waivers and one resolution. To the

community development commission

-- and I don't have a nominee on my printout. Does a clerk have a nominee for this?

[04:14:12]

>> Mayor.

>> Mayor leffingwell: Disregard. Edward reyes representing the doves springs area is mayor leffingwell's appointee. To the municipal civil service commission, kimberly cos have vak is appointed chair

-- is nominated by the council and appointed as chair for one year. Pamela lancaster appointed by the council, ter resa perez wisely appointed to the council and lynn runinette appointed by the council and final lip kevin russell appointed by the council, 20130509-036, resolution, this is provided by which provides the terms of each member and the name of chair of the municipal service commission. There are several items that are pulled off the consent agenda. And there is a request of postponement of item 15 until may 23rd. This is due to the fact that we have a packed agenda after 7:00 p.M. And also due to the fact that council members just received this morning a completely revised ordinance. There is no objection, we will postpone this until may 23rd. Council member morrison.

>> Morrison: I guess I would like to discuss that, whether or not we should postpone it because I think it would be helpful for us to be able to consider moving forward on second reading since, I believe, that the ordinance in front of us reflects the discussion that we had on

--

>> mayor leffingwell: Well, we will discuss it. I will pull it off consent and we will discuss it, but as I said, the overriding factor is an entirely new ordinance has been drafted in this book before the council today. So item number 30, council members morrison and spelman requesting a 7:00 p.M. Time certain. Item 35 is pulled by mayor pro tem cole. Item 32 is pulled by council member tovo. One item is pulled off consent due to speakers and that is item number 31. So that is our con gent agenda for the day

-- consent agenda for the day.

[04:16:47]

>> Morrison: Mayor.

>> Mayor leffingwell: Council member morrison.

>> Morrison: Could we also discuss

-- I believe you mentioned in changes and corrections that items 39 through 44, the east riverside corridor items, that they were going to be heard at 7:00 p.M. Was that a council

-- was that

--

>> mayor leffingwell: That is my request because i would like to have the entire council here for that discussion and

-- and discussion and vote, and that will not be possible until after 7:00.

>> Mayor leffingwell: I am confused.

--

>> Morrison: I am confused. We are all here now.

>> Mayor leffingwell: We are all here now but we have several other items to do and a it's

-- it is unlikely that we will get through that discussion by noon. I am requesting the time certain. So we have

--

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I wonder if we can see how far we get and make a determination, if we don't get to riverside and

-- and you need to leave, i assume

--

>> mayor leffingwell: I have to leave at 11:00 o'clock.

>> Tovo: Forty-five minutes from now?

>> Mayor leffingwell: Correct.

>> Tovo: We have how many items before us to discuss? Four.

>> Mayor leffingwell: Several and we've also got executive session.

>> Tovo: I think you are right. I don't think we are going to actually get to east riverside, but ...

>> Mayor leffingwell: I don't think we are. So we have several items on the consent agenda that have speakers. The first is ora houston. Is ora houston here? Don't see her here. Carol brazinsky? Do you want to speak?

>> [Indiscernible] which i signed up on was postponed until may 2 but I will be happy to speak now.

[04:18:50]

>> You are correct, the item is postponed, thank you.

>> Should I wait?

>> Mayor leffingwell: Yes, you wait.

>> Thank you.

>> Mayor leffingwell: Paul paulsaldana and you have donating time to you mr. Orividis, up to 6 minutes.

>> Thanks, I am speaking on behalf of hispanic contractors. Regarding number 23, you may have recalled at the last meeting you agreed to postpone this until today. We had representatives attend the stakeholder meeting that is being facet tailed by egrso and ms. Halify as it relates to the construction wage recommendation, I want to point out here and recommend that for the last 6 months we have been in discussion with your staff that managed the city's rosa program, i believe it is hrd and trying to facilitate the discussion for staff to come back with potential initiatives and ideas how to mitigate the impacts assuming that when you all vote to approve the construction wage requirement, that somehow or another we would have a program or service in place to help mitigate the impacts for small contractors, so at this point, staff really hasn't been creative or willing to think outside the box and they haven't really come with any potential recommendations or ideas on how we might potentially mitigate the impact of that. I do want to point out and i think one of the questions that needs to be asked is, what has been the cost savings since the inception of the city's rosa program? And I think what you are going to hear from staff is it's not a cost savings. That it's a cost avoidance. And we believe either way you look at ate, there is a cost savings and that some of those dollars could in essence be redirected to create some type of a collateral pool or program that would help mitigate the impacts to address the on going challenges that small contractors have. So I would encourage you to ask that. We looked at some of the audited statements and it is my understanding there is like a 2 million-dollar cost savings and that money goes back to actually pay your staff so I would like to receive clarification about that. And maybe just give you an example. Let's say you have a building that

costs \$10, and through the use of the rosa program, it only costs you \$9. So what happens to that 1 dollar cost savings? Where does the 1 dollar go. What we are saying the 1 dollar cost savings could be put in place to help support a program that would mitigate the impact of the ongoing challenges that small businesses, particularly local small minority women owned businesses continue to have. I think really that is it. I just wanted to go ahead and convey that. We don't really have a dog in the hunt with regards to who it is that you are recommending but we do believe that all of us would benefit by having more conversations because we feel today there is still too many questions with regards to how this rosa program could be modeled. The last point I will say and I just

-- just remember this point is the way the rosa program is set up, it only applies to cip programs and at one point we had a rosa program that would apply to all city projects. We believe again that is yet another opportunity to help support our local small businesses. I will be happy to answer any questions you may have.

[04:22:11]

>> Mayor leffingwell: Any questions?

>> Thank you, mayor.

>> Mayor leffingwell: Those are all of the speakers i have. I entertain a motion on the consent agenda.

>> Spelman: I move approval but I have a question.

>> Mayor leffingwell: Council member spelman moves approval. Is there a second?

>> Second.

>> Mayor leffingwell: Second by mayor pro tem. Council member spelman.

>> Spelman: When you read the nominations for boards and commissions, you listed the five members of the municipal service commission. Is part of the job of the council not only to name the commission members and also to name the chair? I wanted to know if you named the chair, it is not on the yellow paper.

>> Mayor leffingwell: I did name the chair, kimberly kovak is named chair for one year and we passed a resolution to that effect.

>> Spelman: Good.

>> Mayor leffingwell: Further discussion? All those in favor, say "aye."?

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I notice we have number 20 on our consent agenda. Is that remaining on there?

>> Mayor leffingwell: Let me check.

>> Tovo: I see citizens wearing t-shirts that suggest they are here

--

>> they are signed up to speak.

>> Tovo: They are signed up to speak. Is it pulled from the consent agenda?

>> Mayor leffingwell: Yes, they must have just signed up because I didn't have them before. We will hear those speakers. Kathleen hut.

>> Tovo: Okay, we wanted to be sure we passed this, i wanted to make sure they had an opportunity to ...

>> Mayor leffingwell: Thomas fritsinger and kathleen is donating time to you, is that correct?

>> Yes, sir.

>> Mayor leffingwell: You have 6 minutes.

>> Thank you very much. I am going to provide a copy of what I am going to read off to you afterwards. My name is thomas fritsinger and the president of austin's calling homeowners association and the hornsby corporation committee and we represent roughly 4,700 homes and roughly 400 people in hornsby ben that is at 130 and 969. We have been struggling as a community, all slow the volunteer efforts have results from pass through passing through and victories of our water provider, they are not nearly enough. A single main road has a high accident and fatality rate. Our water rates are among the highest in the state, exceeding roughly 4 times what you pay in austin. The medical transport response time for our community is the absolute worst in the entire county. What we need is simple. What we need is a voice. We need you to enable us to enact ordinances stopping dangerous activities and increasing our protective services. The city of austin and the county cannot do this. We need you to -- we need a voice to reduce home expenses for the thousands of low income residents in our community. The average income level in our community is close to the federal poverty level. The average home value is less than half of what it is inside austin proper. We need to be able to have the ability to issue franchises so we can reduce the expenses on these homeowners and families there. We do have a plan to reduce our water rate. We have need a voice to induce zoning ordinances and control unwanted businesses in the city of our community. The city of austin approved a gas station to be put in the center of our community on our busiest two-lane road. This is the stuff we can't have. We need a voice to stop our friends and families and neighbors dying on our roads. There is a high death rate and there is many reasons through the years that the county hasn't looked like they need to be, although they are taking proactive measures to do so, we can plan for the future. We can do this. We need to create an emergency clinic in that area that will not just serve all of our community but all of east austin as well who has to go all the way to i-35 to get to an emergency clinic. City staff might argue that our incorps would reduce austin's annexation potential within the etj and that incorporation would degrade the integrity. The truth is there are absolutely no current plans in austin to annex that area, not even long term. Additionally we fully understand the expense to annex our area within the six months of us producing the petitions necessary, it's going to be cost prohibitive. It's also going to inhibit your ability to annex other areas that are high priority. Since austin currently cannot provide our community essential needs such as road safety, your passing of a resolution and possibly giving us a voice so we can save lives and increase the quality of life for this underprivileged community, we call hornsby bend is the only ethical choice and the families who lost loved ones on our roads agree. Today I come to you with the backing of these families and it is in my back year and last year we did a survey of the community to see where the backing came. We only needed 8 or 900 signatures to move this process for warped. I have 1200 signatures out of our community. We have the support of our community for in to with stand the critical nature of it. Today we humbly request that you show us the same support, voting yes to resolution confirming consent for hornsbe y bend to hold a corporation develop will hold a relationship with our city and active development of eastern travis county. Today please resolve the consent hornsby bend an opportunity to hold an corporation election. It could be worded as such, the city of council hereby resolves to allow the hornsby bend inc. To initiate incorps proceedings in area the defined by proposed area map referred to as hornsby bend, texas. Each of you should have received a copy from staff. I am available for any questions you might have.

[04:28:19]

>> Mayor leffingwell: Thank you. Mayor pro tem cole. I have some questions on staff on this item. Thank you for your testimony. I appreciate it.

>> Good morning. Tell us how this incorporation impacts our annexation plan?

>> The entire etj is the future growth area, where the city will grow into the future. Other cities aren't allowed to grow into our etj and we aren't allowed to annex territory of etj that belongs to over cities. If you allow another municipality to incorporate in our etj, the future residents and future customers would no longer be part of the city of austin.

>> Cole: Have we ever allowed another city to incorporate into our etj?

>> Other cities have incorporated in our etj but not with the city of austin's consent. For example, bee cave was incorporated by act of legislature and recently volente was part of etj.

>> Cole: It is part of good public who policy to to not let another city form within our etj?

>> Absolutely.

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I have a question. What are the plans? Can you give us some sense of how soon hornsby bend maybe considered for annexation? Specific items.

>> It is not currently contiguous to the city limits. The neighborhoods are a goodistance away. Highway 130 was recently constructed so possibly annexations around highway 130 would be annexed before these neighborhoods would be, but right now it is too far for us to be able to annex it.

>> So probably it is too far us outto give us a timeline on that?

>> Yes. It depends on when the things between here and there develop as we grow.

>> Tovo: Thank you.

>> Mayor leffingwell: All in favor for the motion to approve the consent agenda. Hang on. We have one more person just signed up on item number 4. Edward sachetti? Is he here? Do you realize this is on consent, about to pass and you are in favor of it. Do you still want to speak?
[04:30:37]

>> Yes.

>> Mayor leffingwell: Okay.

>> Thank you, mr. Mayor and council. I apologize my coworker is at a conflicting meeting with this one and he or i jeff santori was just going to make a comment. With the library, I just wanted for clarification, is there going to be an area standard wage, and, also, paid for that particular project from the annals of local people, local hire?

>> Mayor leffingwell: We can put you together with a staff member to answer that question.

>> Okay. That's all I've got. Thank you.

>> Mayor leffingwell: Thank you. Okay. Now, all in favor of the motion to pass the consent agenda say aye.

>> Mayor.

>> Spelman: Mayor.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I would like to show me voting no on item number 20, the item we just discussed about having hornsby bend actually incorporate within our etj.

>> Spelman: Perhaps we should pull item number 20.

>> Cole: I think we should pull it.

>> Mayor leffingwell: Request to pull item 20 is off the consent agenda.

>> Tovo: Mayor.

>> Mayor leffingwell: COUNCIL MEMBER TOFO.

>> Tovo: I should make this point when we talk about it but I believe the resolution in our packet is to disallow them from incorporating but we can talk about that at ...

>> Mayor leffingwell: Council member spelman, do you understand that?

>> Spelman: I think we need to have a discussion about it, mayor. I prefer to pull it.

>> Mayor leffingwell: I would also say that I intend to support the resolution, disallowing the annexation. So item number 20 is pulled off the consent agenda. And with that, all those in favor, say "aye."

>> Are. Aye. Opposed say no. Passes on a vote of 7-0. And item number

-- consider together items number 9 and 28. Disregard tha. That's already passed. Okay. So now let's take up item number 15 for the purpose of discussing, as council member morrison requests, council member spelman and myself had a request to postpone this item until may 23rd.

[04:33:16]

>> Morrison: Mayor, I guess I would maintain my request that we not postpone it and that we certainly would have the opportunity to not take action after we

-- after we discuss it this evening. I know that there are folks that are planning to come down and be part of it, so i would prefer that we do

-- that we not postpone it and that we at least have the opportunity to discuss the draft ordinance.

>> Mayor leffingwell: Well, my reason for suggesting postponement is I don't know how we are going to discuss it. We just got the ordinance this morning. We aren't going to have any opportunity to read it and study it and other folks who might be interested might want to read it and study it before we have the actual discussion, potentially leading to a vote. Council member spelman.

>> Spelman: Mayor, whether i read it or not, it is one issue but if we are going to have a good public discussion, even if we intend to postpone it after the public discussion, it seems like the public needs a chance to look at it and understand what it is they are responding to. If I haven't had a chance to read it, I would think the people who probably otherwise would be showing up at 7:00 o'clock wouldn't have a chance to read it maybe because they don't know where to find it yet so I think giving us a couple of weeks so we all understand what we are talking about would be a good idea.

>> Mayor leffingwell: Let me add council member spelman, mayor pro tem cole and myself were sponsors of the original ordinance, and it has been, can I say, just rewritten. We would like to have that opportunity.

>> Cole: Mayor.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I would like to weigh this on that, also. I think that we talked about some pretty substantive changes yesterday and we need a chance to visit with the public one on one also about those changes and if we consider more deliberation this afternoon, we won't get a chance to do that so I would appreciate a postponement.

>> Mayor leffingwell: Council member tovo.

>> Tovo: And I have sort of a mixed opinion about this. On the one hand, I agree. We have not had a chance to really weigh in. I mean

-- I met with legal staff to go over some of the questions frantically to go over preparation for this this evening and I think in my opinion it would be premature to take an action on a

resolution that has not been out there 24 hours. On the other we have many people coming out here at 7:00 o'clock and probably adjusted their schedules to go forward. I would suggest we go forward with a public hearing tonight and with the understanding we are not taking action. So that's what I plan to do to support hearing it tonight, having at least the beginning of a discussion but I am not prepared to take action on this resolution here tonight.

[04:36:02]

>> Mayor leffingwell: Well, I guess I don't see the purpose in having the hearing when we are not going to take any action and we are going to have an opportunity to have this hearing again, when we do plan to take action. This is kind of redundant, in other words, I guess what I am trying to say. So I guess I will entertain a motion to postpone this item until may 23rd.

>> Second.

>> Mayor leffingwell: Council member spelman seconds. Council member spelman makes the motion. Second by mayor pro tem. Further discussion. Council member tovo.

>> Tovo: I will just say I

-- while I appreciate your comments, I think this is a critical issue and we are going to need to have a lot of public discussion about it so I don't necessarily see it is terribly redundant to have a discussion tonight and again in a couple of weeks. We need to create those opportunities for the public to talk about this. One thing I want to say i think it is highly unusual not to honor the postponement, especially those who have sponsored the original motion that has now changed. I think it would be a normal courtesying to ahead and approve this postponement. So all in favor of the motion, say aye. Opposed say no.

>> Mayor leffingwell: I think that passes on a vote of 5-2, with council member tovo and morrison voting no. Let's see how far we get. We can now take up item number 20. We had speakers but they have already spoken, so we are open for discussion. Perhaps we need clarification from staff on exactly what the resolution says.

[04:38:05]

>> Name is virginia collier from the planning department, the staff recommendation and resolution in your backup today would deny consent to the incorporation request.

>> Cole: I consent.

>> Mayor leffingwell: So while you are here, we do have a policy on release

-- the etj releases. One of those conditions, as I recall, is the city of austin never has any plan in the future to annex this property. Is that correct?

>> That's correct.

>> Mayor leffingwell: You can't really say this about this, so it is really

-- the request is not in accordance with established and accepted city policy?

>> That's correct.

>> Mayor leffingwell: Okay. Entertain a motion on item 20. Council member spelman.

>> Spelman: While ms. Collier is up there. What are the effective

-- what is the effect of our passing a resolution to deny consent?

>> The process moving forward, when a municipality wants to

-- a group of residents wants to incorporate the city's etj, they must is for the consent to incorporate. If the city denies consent, then they put together a petition of 50% of the property owners and 50% of the voters, sign a petition and ask for the city to annex the area. If it is within 6 months the city doesot annex the area, then that is giving consent to incorporate. From that

point they need to go to the county and set up an election and have the voters vote to incorporate.

>> Spelman: If day after tomorrow you were to have on your doorstep said petition asking for annexation, what would you do?

>> We would take a careful look at the area. I think there is probably portions of what they are requesting to incorporate that we could annex. We certainly couldn't annex the entire area they would like to incorpora

>> Spelman: At least you would consider part of that annexing?

>> Yes.

>> Spelman: Thank you.

>> Mayor leffingwell: Is there a motion?

>> Cole: Move approval, mayor.

>> Mayor leffingwell: Mayor pro tem moves approval. Second by council member smell.

Discussion? All those in favor, say "aye." Aye. Oppose say no? It passes on a vote of 7-0. We go to item number 30. No speakers signed up. I pulled this.

[04:40:22]

>> Morrison: We set it for 7:00 o'clock time certain.

>> Mayor leffingwell: Thank you.

>> Morrison: Sure.

>> Mayor leffingwell: There is so many ...

>> Mayor, the questions are simple, we may want to deal with them now on item 30.

>> Mayor leffingwell: I think we officially said it. Item 31 has two speakers. Gus pena, gus pena. Ora houston, ora houston. Council member martinez moves approval. Second by council member morrison. All those in favor, say "aye." Aye. Opposed say no. That passes on a vote of 7-0. Item number

-- 312 is still showing on mine.

>> I pulled it.

>> Mayor leffingwell: Council member tovo.

>> Mayor, at the suggestion of my colleagues, I would like to offer this for postponement that they take this issue not only to electric utility commission but also the development commission by the time it comes back for the 23rd of may.

>> Second.

>> Mayor leffingwell: Second by council member tovo and second by martinez. All those in favor, say "aye." Opposed say no. Passes on a vote of 7-0.

>> We can get to item 35, pulled by

-- mayor pro tem cole.

>> Cole: I have a simple question of the sponsors. I know that the goal, i believe, is to preserve

[04:42:29]

[indiscernible] currently in rainy street and I am making sure the resolution is that the houses will be taken out of rainy street for preservation as on peed to being moved. I wasn't clear on that.

>> Martinez: The actually goal

--

>> mayor leffingwell: Council member martinez.

>> Martinez: The actual goal is not to preserve the houses or housing. It is one option that would

be available for use of the funds that has been broadly discussed. None of these homes in Rainey Street are designated as historic. Therefore, they are subject to removal as new developments occur. What this fund does is it simply establishes some revenue from right-of-way closures and scenes from the development of Rainey Street on how we preserve some of the historic aspect of Rainey. Doesn't mean we would be preserving houses or saving them. There is a goal to take one of them and put them in suitable location and restore it, much like we did on Hamilton home on East 7th Street, but this is simply what is being discussed leading up to this. This item allows staff to move forward with creating this program, putting all of the details in place as to where the funds would be allocated, a projection of how much funds could be created with Rainey and maybe there is an entry point with historical features that provide this story with the history of what was predominantly Hispanic neighborhood. All of the details are not pushed out. This is an evolving discussion. This moves the process forward to establish the preservation fund that would come from fees from development, much like we did on Congress Avenue, when Los Manitas was being removed from its location.

[04:44:35]

>> Cole: Okay. When I was looking at the language, I was trying to make sure we weren't contemplating doing anything that would destroy our CBD zoning or impact the projections from the Waller Creek?

>> Martinez: Completely understand your concern and this does not do that at all. It does not preclude any future developments from happening. It just says if and when it does occur we will have some funds available to maybe preserve those homes and move them to a more suitable location or maybe transition into a neighborhood development corporation to make them affordable housing. It doesn't mean they have to. It just would give us that option and give us the resources to consider all of those options.

>> Cole: Move approval, Mayor.

>> Mayor Leffingwell: Mayor pro tem moves approval. Second by Council member Spelman. Discussion? All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. So now, Council, we can

-- all we have left to do this morning is go into executive session, so Council will go into closed session to take up four items pursuant to section 551.07, the Government Code, the City Council will consult with legal counsel regarding, number 47, legal issue related to open government, item 48, legal issues related to transition to electing Council from single member districts, item 49, legal issues related to cause C1CV1104217, Rachel McKuesten et al versus the City of Austin and number 52, item of City Benefits Program, noting that item 51 has been withdrawn and so now we will go into executive session and the Council will come back out citizens' communications and likely then go into recess. Is ask

[06:03:13]

>> we are out of closed session. In closed session we took up and discussed legal issues related to items 48 and 49. We have not yet concluded the closed sessions and will take up items 47 and 50 concerning legal issues when we resume. The Council is now back in session and we will begin citizens communication. The first person to communicate is Kahup Kim. Mr. Kim, please come forward.

>> Good afternoon. I greatly appreciate all of you and appreciate America and appreciate Texas and the City of Austin as the best city all over the whole world. I enjoyed coming here without

any trouble. I found parking perfect. Everything is perfect. I really, really appreciate you. I came here several times and i requested so-called my item request, but this honorable council denied and rejected, did not even accept one. Greatly amazing every one of you remember what I said here

-- that was, one, is austin stole my job as a professor and my property. The other one, the government at the time, u.S. Attorney general texas lawyer, kept my son from the city of austin. He is an american resident, texas citizen. President george w. Bush committed my son to jail and president bush sanctioned south korea. Who has jurisdiction, soviet union, czechoslovakia or north korea? I'm here to educate american lawyers authority to judges. I greatly appreciate you mayor may mayor leffingwell, mayor pro tem cole, commissioner riley, council member morrison, spelman and martinez. You received my requests several times. Let me test you about your knowledge of a city code. My speaking t only 7 minutes. Let me test your knowledge of the city code. The city code chapter 5

-- no, chapter 2 and article 5 of chapter 2 of section 21, number 4, what is it? What is it! That's a democracy. Democracy! What is number 2? Best government is open government

--

[06:07:02]

>> thank you, mr. Kim. We appreciate your discussion and testimony.

>> Your code

--

>> mr. Kim, thank you. Your time is limited. Your time has expired.

[Applause]

>> next we have mr. Will mccloud.

>> Can you read the topic for me, please?

>> You're welcome to read it, mr. Mccloud.

>> Actually, I'm thinking that y'all read it before and I don't know what y'all have to hide, but I'll read it for you. The city of austin is not complying with

-- the city is not complying with the americans with disabilities act, number one. Two, abolish capital metro. Three, we need to pass a resolution to remove rosemary lindbergh due to her unethical behavior and, four, to be determined. If you would start the audio in the slide show for me, please, about austin energy and ada.

>> Yeah, they did mail it. We got it back.

>> I'm talking about the customer assistance program. It should be on that slide right there, the customer assistance program. They said they never got the letter for the customer assistance program, never got proof of eligibility. Why are they sending me a letter saying they received the information, but I didn't send the required documents? That doesn't make sense. And, also, according to austin city code of procedure for council meeting, it says the best government is that which is done in the open. Well, why don't we add to that and say the best government is when public servants are held to higher standard? Why is rosemary lindbergh still on the bench after the crimes she committed? Because thousands of people with D.U.I.s HAVE LOST THEIR JOBS About that. I encourage you to look up on youtube audience water waste on burnett road in teakwood plaza. The bus stop is flooded friday nights. What do you do to resolve the problem? All you do is fine them. Why can't we turn their water off, assess criminal penalties like in san antonio? Last but not least, the "to be determined." I have a friend over here, ronny, he does speak, and nowhere in the city code does it say you have to speak on topic. I can't find that

anywhere. So if it's not written, it doesn't exist? I don't understand that. And federal law preempts municipal law. Federal law says you must make reasonable accommodations and modifications to rules, policies and procedures, and you failed on that one. Since I have seven seconds left, I'd like to ask council member martinez why he's in new york when he's supposed to represent the citizens of austin? Thank you!

[06:10:38]

[Loud applause from audience]

>> thank you, mr. McCloud. Walter Olnick.

>> Greetings to austin. Today I would like to talk about the national sanitation foundation, nsf, and its treasured seal of approval behind which purveyors including the city of austin hides. The health and human services carried the cdc's safe and effective mantra, while the water utility folks had the nsf60 mantrament what is this that confers a free pass to any fluoride vendor or user sporting it? For years epa held the regulatory power over drinking water additives, but in 1988, following an embarrassing scandal in which it caved to dow chemical's demands to double the acceptable fluoride level from 2 to 4 parts per million to accommodate a new pesticide the company was preparing to unleash on the environment, epa divested itself of the water fluoridation, it did so transferring responsibility for water additives to a third-party entity outside of government reach, the nsf. So, again, what is nsf? A michigan-based trade association whose members, mainly chemical suppliers, have volunteered to self police by setting standards for their own products. They have no accountability nor are their documents subject to public scrutiny. With protection like that, they needn't consider anyone's interests but their own. Therefore, they're the fox guarding the chicken coop. That's why we call nsf standard 60 a sham. But there is more. Even if nsf60 were an honored certification it would still be applied fraudulently because the nsf in issuing it violates its rules. Nsf60 requires safety studies and testing for impurities for every product certified. Safety studies are animal studies but nsf doesn't conduct them, they rely on the vendors to provide the information if not available. If not available, they simply issue a waiver. Last january my wife filed an open records request for those studies but with the austin water utility. She received a 2012 nsf report showing chemicals. Safety studies were nonexistent. Nsf says this is perfectly okay. We will continue to insist it isn't until we bring fluoridation in austin to an end.

[06:13:57]

>> Thank you.

[Applause]

>> good afternoon, council members, I'm greg kasar, part of the workers defense project. Almost two years ago, you all by a majority vote determined you would invest about \$4 million in taxpayer dollars in the downtown j.W. Marriott project. The stipulation included was that workers or their wages would be protected from being paid any less than the city pays its own construction workers, and you were very wise to include a provision in there that said if the developer fails to meet that requirement, then the city will take back every single penny of taxpayer money in the project. Since then, construction is making a hole in congress and developers are taking in tens of thousands of dollars already but has shown it has no intent to pay prevailing wages to construction workers. An audit of the project by the city of just a small number of the workers found money from that small sample weren't being paid prevailing wage to city staff ordered on a deadline of march 1 the workers be paid back. That was two months ago

and city staff has still not received any proof that workers have been repaid since then. All the city got was a letter from developers lobbyists asking the city to back off. Since then the city hasn't conducted any more audits on the project and because of that workers defense project announced this week we'll move on taking legal action against the developer. We believe we have standing to sue in order to either one get the ordinance enforced or, two, to get the taxpayer money back. This presents a great opportunity for leadership on the city council's part because I think it would be much easier for you all to enforce the ordinance yourself or get the money back or make sure it's being enforced or to stand on the side of taxpayers and the middle-age workers. The alternative was to send the message that if a developer asks you to not enforce your own rules or enforce your own rules you are willing to stand on their side. I think the choice is cheer and I'm here and available to answer any questions. I think you will stand on the right side of this. I want to make you aware of what we're taking on.
[06:16:25]

>> Cole: Thank you. Council member Morrison.

>> Morrison: I wonder if staff has an update because I know there was work going into looking at the validity of the claims and the concerns that have been raised.

>> I'm not sure if we've done an update recently but we'll get that information to you as soon as we can.

>> Cole: Thank you for the update.

[Applause] Angela Atwood.

>> Good afternoon. I'm Angela Atwood. The CEO of Family Elder Care and here on behalf of one voice central Texas, an organization of 75 nonprofit organizations, primarily health and human service workforce and education organizations in central Texas, and I'm simply here today to thank the city council for the resolution you passed in February supporting the full expansion of Medicaid coverage to all eligible adults in Texas at or below 33% of poverty. We know Texas has the highest uninsured rate in the country and Travis County is about 23%, so the expansion of Medicaid could potentially cut the number of uninsured people in Travis County by half and not only would it improve the lives of those individuals but it would improve the health of the community as a whole as well as our economy. So thank you for your leadership and your full support. Despite the discouraging headline in yesterday's newspaper, we still want to come and thank the council formally and let you know we are committed to continuing discussions at the capitol and trying to educate various elected officials on why this is so important for our community. Thank you.

>> Cole: Thank you.

[06:18:29]

[Applause] Mr. Joseph Skalany. Not here? Marion Matlock. Thank you, Marian.

>> Hi, my name is Marian Malotok and I'm representing myself and Activate Austin. I noticed last night at about 5:15 there was a new draft ordinance for Austin Energy, and while on the one hand I'm glad to see that you're postponing this issue so that people can actually look at it and evaluate it in a thoughtful way, on the other hand there is no time for people to really hear about this who are working people, the fact it's been postponed. So, to me, this is -- I mean, I could see postponing the vote, but postponing the whole discussion of it, when a lot of people were planning to come, I think that really flies in the face of a democratic process. And not only that, but I would like to see that we have actually a public hearing and even more than

one public hearing at different points around the city so that people can actually weigh in on what's happening with this. I truly appreciate the difference between this draft ordinance and the ordinance that you passed on first reading. There is a big difference between the two, and I appreciate the energy that's gone into making those changes. There are still some -- well, let me first preface this by saying I'm really against having a vote at all and I think there is still language in there that makes it unclear where the sovereignty is. I see there is something saying the board can do anything not specified against it, but I think it should be backwards. I think the language should be that the board can only do what's specified and the council does everything else.

[06:20:50]

[Applause] there's also a concern I have about language around membership. It's talking about consumer advocates and environmental advocates and low-income advocates as people such as those could be put on the council. I think the language should be changed to be those four types of people shall be on the council, each one of them. Also about removing members who are not doing the bidding of the people and the city. I think two-thirds is too high of a threshold, thank you, and that it should be actually maybe one-third. I think, also, as far as what -- I think this board should be like most of the rest of the boards, where all it does is make recommendations. It can take no action. And to have 50 million, I think it's excessive. I think we need to bring it down to 10 million.

[Applause]

>> Cole: Thank you. Mr. Paul Robbins.

>> Council, I have been informed that item 15 has been canceled for tonight. Can someone confirm this is correct?

>> Cole: That's correct.

>> I see nods of ascension.

>> Cole: Yes, Robbins.

>> There has been considerable effort on the part of opponents of this proposal to ask people to attend tonight's meeting and speak against it. At the very last minute, we have been told that this will not take place. This is insensitive, it's a little underhanded and

--

[06:23:03]

[applause]

-- no applause is necessary here. And it's not too much to ask that we be heard. I am told, though I wasn't here, that most of the council wanted to go ahead with this but that the mayor insisted that it be canceled. So I am not

-- if this is correct, I am not ascribing blame to the people sitting here, but I am going to suggest, as an alternative, that, when this is taken up again, it be posted as a "public hearing" so that it cannot be summarily canceled. We were officially promised a PUBLIC HEARING FEBRUARY 14th. Those are all my remarks. Good afternoon, council.

>> Cole: Thank you, Mr. Robbins.

[Applause]

>> Jerry Locke.

>> I agree with the statements of Paul and Marian. I was going to say a lot of things today, and the mayor, specifically, has taken the winds out of our sails. This

-- austin energy, for me, is fundamentally an issue of democracy, fundamentally an issue of our democracy. An unelected board is fundamentally an issue of our democracy. What was happening at the state capitol is an issue of our democracy and certainly canceling a hearing tonight after a community group spent a lot of resources to get one people here and one person can just cancel that and knowing that happened, that we had rallied a lot of people in this community, and a lot of people in this community are against this proposal. I'm on the two democratic clubs in the past week, both passed a resolution unanimously, and it wasn't due to me. I think, largely, they decided before I came. Then you have the ten-one that weighed in yesterday, and nelson lender, and roger boget

-- you know, this community doesn't like what's happening. I think anyone that runs for mayor should really carefully consider the votes they're going to take on this issue because this community is solidly against it, republicans and democrats, everyone is against this proposal, and you go by yourself if you try to pass it. I do appreciate the change that's been made, but I am not for a compromise on this. You all have done a very good job of being the governing body of austin energy, and I want you to continue to be the governing body of austin energy and not have it mucked up with another board, whether that's an advisory board or it has more power than this. You all have done a good job. That's what people are saying. And people are also saying -- i went to a meeting this past thursday, I think it was, and there was a man from california who was a law professor, he was head of the independent commission in california. They drew the district boundaries for congress people, state reps, state senators in california, and I sat down across from a woman, and it was a lunch, and the first thing she said is the city council is doing this about austin energy because they want to take power away from the new board. And then we had a presentation, and the first person that got up said the city council was trying to take power away from the new ten-one board. And that's what barrintos and lender, that was their message yesterday, and all of this is fundamentally a question about democracy. Thank you.

[06:27:28]

[Applause]

>> Cole: Council member spelman has a question for you.

>> Spelman: Yes. Senator bar yens to mr. Lender or anyone else tell you something that we're trying to do something to take power away from the ten-one council, i suggest you tell them the ten-one council can pass an ordinance to take it mack. It takes a 24 hour notice or a majority vote. They can change by ordinance anything we propose by ordinance. So I think if we were trying to take power away from the ten-one council, we would have to do something considerably more evasive than just pass an ordinance of our own.

>> All in terms of resources, and I think leasing the airport is real similar to what's happening with austin energy.

>> Spelman: Well, I don't know anybody who's talking about leasing the airport except a couple of preliminary discussions. That's certainly nothing that's come before this city council.

>> Cole: Ronny reeferseed.

[Applause]

>> yes, I'm ronny reeferseed yelling, where's the mayor! Hallelujah, so-called president, so-called peace prize is soon out of office! Remember water gate? All because of some second-rate burglary, as they called it, richard nixon was hounded out of office, now testimony already give on the house by two tellers, briefly so-called president, so-called peace prize and former secretary of state hog wash glen trader have blood on their hands for the assassinations in

benghazi of four citizens who asked our government to help them four times, ignored and killed. We have dead bodies here, unlike second class watergate where nobody dice. You will never hear it from the media. Here's another example of why we almost kissed those traitors goodbye and shout good riddance. Alex jones radio show on 91.5f.M. , Also men free PRESS.net. We lost jim tucker, who has been exposing the truth about the build-a-burgers who for many years up to now basically have been ignored by the lame scheme media people. It's not a secret anymore the build a burger elites including politicians, celebrities and a token negro have been making shouting schemes for war, peace, gas, et cetera, decades. Jim tucker led the truth and saw his work paying off. Now not only readers of american free press know all about these build a burger criminals and secret annual meetings

-- by the way they're meeting in england this year. Furthermore, turn off your tv news proviolence programming into death cults shoved down our votes. Cooks hivacked true judaism for so-called israel. Say death to liberty to our precious u.S. Constitution including the second amendment. Because of the ten one plan, now we can almost stop all these local politicians and criminals from casting in on endless bribery-laden schemes like chuck you farley one, florida toxic sludge water which we+re all protesting against, stop killing us, et cetera. There is all kind of garbage coming out of this body and the travis county commissioners court sessions which I have been in banned for four months just because I disagree.

[06:31:44]

>> Thank you.

[Applause] the city council will now go into closed session to take up four items pursuant to section 551.071 of the government code. The city council will consult with legal council regarding the following items, items 47, legal issues related to opengovernment matters, item 50 legal issues related to the city employee benefits programs, item 50 has been withdrawn. I'll also announce that we will not be back on the dias until 7:00 p.M. For a time certain items related to the east riverside corridor plan, but we will have live music and product lamedications at 5:30. Without objections, the council will go into executive session on items announced. Test test test test test thinkEAST AUSTIN MANAGEMENT Test test saladia 6

[11:44:05]

>> happy birthday to you. ♪♪ happy birt. Happy birthday to you. Happy birthday, mr. Overton, happy birthday to yo. ♪♪

>> let's give her a round of applause. 107. Happy birthday. ♪♪ ♪♪ ♪♪ ♪♪ ♪♪ mckesson ciewn

[12:11:29]

>> mayor leffingwell: Okay. I apologize for being late. The entire council, including myself, were up visiting with president obama as he gave his speech at applied materials in northeast austin, and as you can imagine things got a little late and we didn't want to leave in the middle of his speech. So we apologize again for being late, but welcome to live music at austin city council in austin, texas. It's my pleasure tonight to introduce miranda gil. Miranda is deemed -- she's called ms. Popportunity and she's had years of musical training culminating in her first record take it or leave it after having built a following on youtube. Usually people do it the other way around, don't they, over the past years, and she completed her full-length album debut with an album called my turn, which will be released later on this year. Miranda has the skills to play the bills, says her previous vocal coach, teal collins. She and mentor and producer lz love say she

is anointed to sing and we're about to find out. Please welcome miranda gil. Thank you.

[Applause]

>> this song is an original. It's titled "shine," and i want to thank my producer, sean dell, my writer, brandon williams and jonathan new for helping me create this wonderful song.

[🎵 Music playing 🎵]

[12:13:53]

[🎵 singing 🎵]

[🎵 singing 🎵]

[12:17:06]

[applause] excell excell ent. If you want to see a little more of miranda she'll be playing at the pichango latino music festival this weekend, all weekend, i assume.

>> This saturday at 1:15 on the main stage. 1:15 on saturday.

>> Yes.

>> Mayor leffingwell: Great. Do you want to tell us about some other places you might be playing in the near future?

>> Right now that's all we have right now, but of course you can find it on our web site miranda gil.Com. Make a quick

-- I want to thank my family for continually supporting me. All my fans who supported me from the very beginning when I was a little girl that loved to sing and now I'm here in front of the mayor. So thank you so much. [Applause]

>> mayor leffingwell: Okay. Thank you. Could I ask you, is that one of our microphones you've got there? [Laughter] you brought that

-- audible]

>> mayor leffingwell: Great. So I have a proclamation for you, which I'm going to read, and then we'll take a picture.

>> Yes, sir.

>> Mayor leffingwell: Says be it it known that whereas the city of austin, texas is blessed with many creative musicians, whose talent extends to virtually every musical genre, and whereas our music scene thrives because austin audiences support good music produced by legends, local favorites and newcomers alike, and whereas we're pleased to showcase and support our local artists. Now, therefore, I lee leffingwell, mayor of austin, texas, the live music capital of the world, austin, texas, do hereby proclaim may 9, 2013 as miranda gil day in austin, texas.

Congratulations, mir random

-- mirandagil day. Let's give mere one more hand. [Applause]

[12:19:16]

>> mayor leffingwell: I want one of these. [Laughter] christ christ ie kuehn? Is christie here?

>> Mayor leffingwell: We all know that one of the biggest challenges that we have in health care is mental health, and we do have many challenges in health care, but this is one that has been neglected for so many years and only recently come to light and people recognize problems as diseases instead of just strange things. So some of us remember back in 2004 when travis county created a healthcare district, as it was called back then, hospital district. One of the prime movers for that effort was the lack of mental health care in travis county. We've made so many strides since then, not enough. We're not where we need to be, but there are good folks like these folks

behind me are working to change that and make the world a little better, and this, in particular, has to be with mental health month, and i have a proclamation, which I'm going to read, and then I'm going to let christy kuehn come up and tell us a little bit more about it. Be it known that whereas, one in five children in our community, regardless of race, ethnicity or religious background, is affected by mental illness and an estimated two-thirds of them do not have the support they need to succeed, and whereas may 9 has been set aside as children's mental health awareness day to raise awareness about children's mental health to help reduce stigma and to celebrate resiliency, and whereas the city of austin supports the development and implementation of a system of care to ensure that children, youth and families have access to services and supports that build upon their strengths and test their needs, and whereas we urge all members of our community to learn more about what good mental health means and support appropriate and accessible services for those who have mental illness. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim may 2013 as mental health month in austin, texas. Thank you, christy, and will you accept this proclamation and tell us a little bit more.
[12:23:09]

>> Absolutely. What a wonderful day to be in austin, texas. On behalf of the child and youth mental health planning partnership and the children's partnership, we want to say thank you to our policy makers. That includes our wonderful mayor leffingwell, as well as our council members. We're especially thankful for their continuous support of children and mental health services and supports in our community. Each may we celebrate may as mental health month with a special emphasis on children's mental health and awareness of children's mental health and their needs. Our goal is to increase awareness as well as to decrease stigma. We want to increase access and knowledge, and we want to shift our children, youth and their families toward mental wellness. We've passed out today green ribbons and a green ribbon mental health fact card that I hope will be useful for you. It has information about mental health in the united states, but more importantly it has updated information about children's mental health here in the great state of texas. We've also brought with us a banner, which was created by children and youth and their families who have mental health challenges. They prepared this banner two mon ago in preparation for this event. We've also shared this with our travis county commissioners court members, likewise. We also have a little bit of information we want to share about a new and exciting award.

>> I'm chris downing. I work with communities and schools of central texas and I'm very proud to co-chair the child and youth partnership that represents a wide range of children's services in this area, and on behalf of the child and youth mental health planning partnership, we are pleased to announce a new award. The award honors the advocacy work of caregivers, teachers and other informal supports, those folks who are not paid to do this work, that go above and beyond to protect the rights, safety and well-being of children. It is proposed that this award will be named after henry McMann, who volunteered tirelessly on behalf of the children, youth and families of travis county. His passion was to strengthen children's mental health systems of care and promote collaboration across child-serving agencies. THE henry McMann children's advocacy award will be presented each may as a part of minor's mental health awareness month. This year the award will honor henry, who passed away on march 19, 2013. Henry was an active member of the child and youth mental health planning partnership, and he served on numerous committees. Henry had a fondness for promoting children mental health awareness day. He was a strong advocate and promoted awareness of children's mental health issues all year long. Since

2006 he served on the children's partnership board. He was an original member of the children's austin independent school district student health services advisory board, and remained an active member until his death. He was also a member of the school health advisory council, the central texas african-american family support conference, where he volunteered for the past nine years, and additionally he was active in the local family support co-op and the austin/travis county integral care planning and network advisory committee. That's a lot of advocacy work. So thank you very much for this opportunity to honor the legacy of henry McMANN.

[12:27:22]

[Applause]

[12:29:34]

>> mayor leffingwell: Tonight we're especially honored to recognize an austin resident who is the oldest world war ii veteran in the united states, richard overton, and he's also celebrating his 107th birthday today. [Cheers and applause] richard

-- richard grew up near bastrop and after he returned from his military service he worked for the texas treasury department here in austin. He now lives in the same east austin house he built when he got out of the service at the end of world war ii. He tells us he's in great shape. Looks like it to me. He takes care of himself by mowing his own yard, taking one baby aspirin a day, by attending church every sunday and enjoys the company of many friends. As a gift to you, mr. Overton, we would like to take you to washington, d.C. On the honor flight program to see your world war ii memorial that was built in your honor, and i believe that flight is going to be scheduled for next month, in may. I can tell you that I have gone on this trip once with 50 world war ii veterans. I went last fall. It is a very moving experience. It was moving for me. It was moving for all the veterans, and I know you'll have a great time. So

-- and it's something

-- the way I look at it is we owe it to you. We owe that to you. Honor flight's mission is to transport veterans, world war ii veterans, to those living in 14 central texas counties from austin to washington, d.C., Of course, to see their memorials, and you'll get to see a lot more besides just the world war ii memorial. You'll get to see the vietnam, the korean war memorial, we got to see the iwo jima and the changing of the guard at the cemetery. We'll keep you busy you an I'm sure you'll keep up with it. So this gives me an opportunity to put in a plug for honor flight austin. Of course like everybody else, it has a web site. It's called honor flight austin.Org. We have on tap now three more flights

-- three flights scheduled for this spring and three scheduled in the fall. We frankly continue to need to raise money to support that effort, so go to the web site and make a donation. Contact gunny sergeant ellen bergeron are if you don't have a computer. He'll take care of you and find a way for you to contribute. So we'll look forward to those flights and we'll look forward to you being on it. Mr. Overton's family and his pastor

-- excuse me, his pastor and church members are here today, right behind us, okay. I was going to ask you to stand up but they're right here with us.

[12:32:52]

[Laughter] and his pastor

-- who's the pastor?

>> [Inaudible] congra congra tulations. Pastor is going on the flight with mr. Overton, so I think

that's a great thing. That's one of the things that we do, we make sure that there are guardians that go along on the flight, a few. We always try to give them a big send-out, celebration at the airport and upon their arrival at washington regan airport there will be a guardian for each person to accompany them the entire trip. These are all volunteers and we really appreciate what you do. So I have a proclamation for you. And it reads, be it known that whereas richard a. Overton, the oldest living world war ii veteran in the state of texas, is a citizen of austin, and whereas mr. Overton served in the united states army during world war ii and combined his public service and his career with the state treasury department, and whereas, mr. Overton celebrates his 107th birthday and whereas in gratitude for his service to our country during the war and in recognition of his birthday we cordially invite mr. Overton to join fellow veterans on the honor flight to washington, d.C. On may 17 and 18th to see the world war ii memorial there, and to be part -- to take part in the special veterans day invests in the united states capital. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do extend happy birthday wishes to mr. Overton and do hereby proclaim may 11, 2013 as richard a. Overton day in austin, texas. So let's give him a big hand. [Applause] so, richard, would you like to say a word or

--

[12:35:02]

>> I thank every

--

>> mayor leffingwell: Come on up here and say it on

--

>> I don't have much to say, but I thank each and every one of you that's come out tonight to participate in this situation. I appreciate it, and I hope I'll be all right. [Laughter] [applause]

[12:37:23]

>> mayor leffingwell: Thanks for coming down. A pleasure to meet you. [Applause]

>> mayor leffingwell: Next week is take heart austin week in austin, texas, and certainly this is one of those illnesses that has a big effect on many people in austin throughout our community and throughout the country. We're very proud of the efforts of our own health & human services department in promoting very aggressively a new program of cpr. We have a goal of basically teaching every one of you who are out here today, plus a lot more folks out in our community, how to do cpr. That project is already under way. It's been undertaken by our health & human services department, and who knows how many lives throughout the course of a year, the ability to do that will save. So we have a proclamation in honor of take heart austin week, which reads, be it known that whereas take heart austin week is the 11th annual celebration for cardiac arrest survivors, and their families and rescuers and victims of cardiac arrest in our area are blessed to have access to lifesaving care 24/7 thanks to the austin/travis county emergency medical services system, hospital personnel and city of austin citizens. And whereas we are pleased to recognize the austin/travis county ems system and the austin hospital staff for their efforts to improve survival and recovery from sudden cardiac arrest, and we are grateful for our citizens who step forward to perform cpr before the arrival of first responders, therefore i, lee leffingwell, mayor of the city of austin, texas do hereby proclaim may 19 to 25, 2013 as take heart week in austin, texas. Congratulations, dr. Cabanas, and I'd like to invite you to tell us a little more about it.

[12:40:18]

[Applause]

>> thank you, mayor. Take heart austin is essentially a community program that seeks to improve survival from cardiac arrest outside the hospital. We've been working very hard with the normal systems, the hospitals and our ems providers to provide the best care to our community. Some of you may not know this, but every year 650 people suffer cardiac arrest outside the hospital here in the travis county area in the city of austin. 80 of them survive and this week we'll be meeting with those folks

-- celebrating the folks and their families and folks who care for them during that event, but we've been working very hard to put more emphasis in our communities so people can learn cpr and thanks to the support from the mayor's office and his staff, we are actually promoting programs to teach people free cpr so they can learn cpr and teach other members in their community on how to attend to those emergencies. And we believe that if you learn cpr and your family members learn cpr, we will save more lives in our community. So I am very, very pleased for this proclamation and we thank the mayor and their office for the support on our programs to increase cpr in our community. So thank you all. [Applause]

[12:42:23]

>> mayor leffingwell: The excitement is building now. This is internal audit week in austin, texas. [Laughter] [cheers and applause] [laughter] , you know, you've heard of auditor's humor. That's auditor humor. That goes right along with cpa humor, kind of on that level. But, of course, auditors do a great service for all segments of our society, including here at the city of austin. They basically ensure things go the way they're supposed to and that business is honest, and mistake free, and most people don't realize that. Auditors, most of their work isn't directed toward finding people who are deliberately doing something wrong. It's finding people who are accidentally, inadvertently doing things wrong and getting them straightened out before it creates a great problem. So with that in mind I have a proclamation in honor of internal audit week, which reads, be it known that whereas we're pleased to recognize the austin chapter of the institute of internal auditors as it celebrates its 34th anniversary, chartered in 1979 by 13 auditors. The organization now has 891 members, including 44 city of austin employees, and whereas the annual celebration of internal audit week focuses attention on the invaluable assistance that internal auditors provide organizations in evaluating risks and opportunities and ensuring efficiency and effectiveness, and whereas we're especially pleased to recognize the commitment of our local auditors to upholding the standards of their professional organization and to congratulate those who serve in leadership positions with the internal association or with the austin chapter. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim may 6 through the 12th, 2013 as internal audit week in austin.

[12:44:33]

[Applause] so accepting the proclamation is marcus horton, who is now coming up and telling us a little more about auditor humor. [Laughter]

>> I'm not going to try to upstage the mayor and try to blow you all away with humor, but I do have my moments. We have to keep a sense of humor as auditors, otherwise we'd probably go crazy. Besides my day job as senior internal auditor at capital metro, I also serve on the board of the austin chapter of institution of internal auditors and the chair of the government relations committee. I was supposed to be accompanied by some of our other audit members, but as the day grew a little bit long they felt like they were leaving it in capable hands, so I am here. But I

do want to say that i am supported by a lot of other professional auditors, all across the city and around the region, who are certainly here in spirit, if not in person. I do want to mention, besides today's proclamation, the city auditor's office recently added supervising auditor katie houston as -- to its staff, who was recently nominated as one of the top auditors under 30, and so she works right here for the city of austin, and I do want to recognize her because there are some outstanding auditors representing austin and the city auditor's office that cannot go beyond mention. The

-- as mayor leffingwell mentioned, the chapter has grown from a the humble beginnings of 13 auditors to now nearly 900 members strong in austin and the region, doing great things. A large proportion of those auditors have sought professional certifications to show their commitment to the profession, and to assert their professionalism, to remain independent, reporting either to a city council or other governing board, to provide assurance and consulting services to the taxpayers and the citizens of the constituents that they represent. For the mayor to then, after all the service that we provide, turn around and honor the profession the way he has with this proclamation is certainly an honor for me to be here accepting it, and I humbly accept that proclamation on behalf of the nearly 900 members of the city of austin. Thank you all.

[12:47:15]

[Applause]

>> mayor leffingwell: Let's take a picture.

>> I am austin city council member chris riley and it's my great pleasure tonight to join a bunch of good cycling folks in austin to recognize one of the reasons why it is such a fun month in austin, well as you all know, may is, among other things, what, bike month in austin, in case anybody hasn't heard yet. And there's all kinds of fun bike stuff going on all month. So if you've ever thought about getting on your bike, if you haven't been doing that much lately this is the month to do it. We have a couple events in particular that we want to today to rek nice. One is bike to workday coming up next month, and the other is may 19. First, bike to workday is a day that happens every year and it's a day when everybody who has ever thought about biking to work but doesn't do it that often or just wants to try it out, that's a day that you're welcome to a number of stations all over town. So it's a great day to get out there and try it. This year there will be six main morning hubs and 13 satellite stations offering breakfast drinks and souvenir bags. Four hubs after work and 7 satellite stations offering snacks and tasty beverages. Last year we had a station at city hall, over 150 people came by the city hall station. Over 1500 cyclists signed in at various places around the city. There's a lot of work that goes into bike to workday each year and it's all organized

-- it is led by

-- through the efforts of the austin cycling association and we have stan here with the austin cycling association to say a few words about it and I'll present him with the following proclamation that

[12:49:35]

reads as follows: Be it known that whereas biking to work builds morale, encourages camaraderie and is a great way to get active in the community, and whereas, commuters who bicycle to work several times a week are healthier, more alert, take fewer sick days and are more productive. And whereas cyclist reduce carbon footprint, reduce travis county congestion and save money especially concerning rising gas prices and car maintenance. We're pleased to

recognize the many bicyclers participating in this year's event and welcome new bicyclists as part of national bike month activities. Therefore, i, lee leffingwell, mayor of the city of austin, texas proclaim may 17, 2013 as the 57th annual bike to workday. This is for the cycling association, who serves on the urban transportation committee and ask them to say a few words and tell you where you can find more information about this. Stan?

>> Thank you, chris. [Applause]

>> thank you. It's interesting to try to talk about bicycling to work because most of us who ride bikes regularly do it because it's a blast. The health benefits and the clean air benefits and all the other benefits, traffic congestion are great. There are these reasons. This reason is because it is a blast. It's more fun than anything else you can do without being in bed. [Laughter] if you are -- if you are considering taking a bicycle to work and you're intimidated by traffic, there's a web site put together now by the city, as I recall, that can let you find somebody in your area who is a regular bike commuter that might be willing to shuttle you -- not shuttle you, escort y, to mentor you on how to do it. Recognize that traffic is a lot easier to deal with than it seems like. The motorists really don't want to hit you and in austin they're pretty good at avoiding cyclists, so all you have to do is make it easy for them not to hit you, be visible, predictable and polite and get out there and have a good time. Be curious with the other road users and you get it back in spades. So if you want to find out more about it, go to austin cycling.Org and you can find the link to back to workday. The link to the city site i don't remember.

[12:52:06]

>> Just google bike buddy austin.

>> That's it. Google bike buddy austin and that will get you the map-based system as to who has volunteered to help shuttle folks or mentor folks on how to get around town on a bike, and go for it. Go do it. Have fun.

>> Riley: All right. [Applause]

>> riley: Just one word. Okay, thanks, stan, and just one word

-- that happens just a couple days after bike to workday, it's sunday, may 19, this is an equally fun event. It's austin's version of a cyclovia. Started in bowing tau columbia and I had a chance to experience it in bogata, they close streets on all over the city, about a third of the city shows up, not just on bikes, on roller skates, skate boards, wheelchairs, just getting out and being able to enjoy the streets just as people

-- rather than as occupants of cars. And it's a really wonderful community building thing. We did our first one here in austin last year on east sixth street and we had so much fun last year we're doing it again this year, may 19 on sixth street, just just on the downtown part of sixth street.- starts on brazos and goes east to robert martinez, so spans both sides of the freeway. Will be closed off to cars for some hours

-- 10:00 to 3:00, I think

-- 12:00 to 5:00 this year. We're doing a little bit different hours this year. It's great fun. Bring the kids, you'll see lots of kids out there with training wheels getting to experience the street in a way that they ever never otherwise could. There's people out there doing

-- you'll see all kinds of activity, anything you can imagine going on on the street you'll see it. The rollergirls, all kinds of

-- the list of activities going on that day just goes on and on and on and it's a great austin event and it's a tradition that's just getting started so I hope you'll get a chance to get out there and

experience it this year. Last year we had about ,000 people. San antonio has been doing one as well and they've seen every year they do it it gets bigger and bigger and bigger. In l.A. They're doing one that I think they're up over 100,000 people for their eyclovia. We're calling ours viva street and hoping to see the same pattern, more and more people experiencing it every year. None of this could happen without our partners, all the people who have been working hard to pull this together to do this. This year our major sponsors for 2013 include h.E.B., texas gas service, central health, the downtown austin alliance, the aarp, the bicycle sports shop. We've had great support from city departments, public works, health & human services, the parks and recreation department, the austin police department, austin resource recovery and we want to give a big thank you to alexander stewart and james roughly and jerry metcalfe who has work on the operational aspects for the event. We've had people pulling together to make this event happen. Pillars of the society who have contributed a lot to this and other efforts in austin and I want to thank them for their participation in this and so many other
[12:55:16]

things: We have robin stallings with bike texas, james russell and alexander stewart with the texan foundation. Between them we have luciano with all sorts of organizations including bike texas and wayne wimmerly with the austin cycling
-- with bike austin. So I want to thank everybody for their work in pulling this event together and invite

-- james, do you want to

-- or alexander, do you want to come up and say a word or two, james?

>> Actually, first, I almost forgot to read the proclamation. The most important part. The proclamation reads as FOLLOwC: Be it known that whereas open streets initiatives temporarily close streets to automobile traffic so people can walk, bike, dance, play and socialize on them instead, and whereas in 1976 bogata columbia hosted the first sciek low via and has 2 million people attending weekly on 75 miles of car-free streets. Open street events occur in 80 north american cities now and whereas many local businesses and nonprofits partner with the city of austin to produce an austin cyclovia so people can enjoy it and live healthy active life-styles, it includes free fun activities for people of all ages and fitness levels. I, lee leffingwell, do hereby proclaim may 19, 2013 as viva streets austin day. If you want more information go to viva streets austin.Org and you can see all the relevant information. So now with that I'll present the proclamation to james russell and invite him to say a few words. Thank you, james. [Applause]

>> so I really just want to

-- want to thank the city and all of our partners, viva streets is another great example that our city sets for these public/private partnerships that are so successful throughout our city year-round.

So that's all I want to do make qleer. Make

-- make clear. Thank you.

[12:57:18]

>> Riley: We're glad to have robin stallings with bike texas here. Do you want to say a word?

>> Viva streets is a great day and a fun event. It's a family event. I want everybody comes out, but it's not just about biking, although it's safe, the streets are closed, you don't have to tangle with cars but you can bring your roller skates. Bring your sneakers and bring your dancing shoes ready to do some zumba. It will be a great time and we welcome you all to our street, our
-- our office is located there and we're looking forward to another great viva street here in austin

on may 19. Thank you very much. [Applause]
[12:59:27]

>> Morrison: Wow, this is terrific, and where is joanne? So 40 years ago joe an started an organization called the austin neighborhoods council, through the motto, strength through unity and that motto continues to ring strong today. It is an umbrella organization for neighborhood associations all across the city and the

-- it's

-- the really special thing about it is it pulls people in all parts of the city, to find commonalities, help the dialogue, to understand differences and to become a force in the city in order to protect our community, protect our neighborhoods and doing it together. Another cool thing about it is, it is a great incubator for leadership because you get to understand and learn about the varied facing neighborhoods, and the people who had leadership positions through the city, so many people through

-- that have been part

-- that have leadership positions in the austin neighborhoods council, I remember when

-- I guess it was in 2005, i knew a little bit about anc and linda mcneil called me up and said linda pasco is looking for somebody to be a vice president of zoning. I was like, I know zoning, that will be cool, why not and then I was a president and then it was a fabulous way to learn about how to be active and be a public servant and now I am on city council. Kathie tovo was a vice president and we've had numerous folks that are on boards and task forces, and really are leaders in this city, so I am very pleased to present this proclamation and carol lee is the current president so I wanted to present it to carol for safekeeping with the organization and then afterwards, I do have a certificate of distinguished

-- a certificate of appreciation for each of the past presidents. So we will be able to name them.

So carol, if you come on up, I want to read this. It says be it known whereas austin neighborhoods council was established in 1973, with the motto, strength through unity, and 40 years later, continues to be a driving force in our city, and whereas, austin neighborhoods council cares deeply about quality of life issues throughout the city and strives to educate, organize around cultivate community and engagement and where austin council members participate and participated in leadership in all levels of government including service on city council and numerous boards and commissions helping to shape public policy and whereas austin neighborhoods council recognizes austin as one of america's greatest cities and promises to continue to advocate for all of our city's neighborhoods as we face the 21st century challenges together. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim may 2013 as all the neighborhoods council 40th anniversary in austin, texas. Congratulations.

[13:02:41]

>> Thank you. [Applause].

>> Thank you council member morrison for recognizing such a significant event as this. Forty years as a grassroots nonprofit corporation is an astounding accomplishment. I am happy to be able to accept this as the current president, but really, this goes to tribute to all the members and past officers that we've had and our current membership and current officers that are keeping it going today so we are going to be a force in the future. We have lots of challenges ahead of us with the change of governance for austin. We are coming out with a new website in preparing in many other ways to help the city and our residents transition to that. Thank you.

>> Morrison: And now if i could

-- I will read off the names and the years of service, carol lee, 2013, certificate of appreciation. I hope these are in order. Yes, steven alman, 2011 and '12. Cory waltz in 2010

-- i haven't seen these a while. Annette cammittee and laura morrison, your truly, 2004 and susan pasco, 2004 and '05. Brian king, 2003. Hey, brian. I learned so much from all of these people.

Jim walker

-- jim

-- i didn't see jim here.

>> He is right behind you.

>> Morrison: Jim, how is it going? I didn't see you. 2001 and 2002, jeff jack, 1998 and 1999.

Hey, jeff. Larry douser, 1983-'85. That must have been before we had [indiscernible]

[13:04:53]

[laughter] and joe an varts. Joe wan, it is so delight

-- joe an, it is so delightful to have you here.

>> [Indiscernible]

>> sure if you'd like to.

>> When this organization was formed 40 years ago, we had four criteria that we we agreed, to force, to stick to and to guide us, and that was leadership, education, coordination, and mutual support. I believe I can honestly say that the real strength of this organization and the reason it exists as it does, all of these 40 years, is due to the efforts of every single individual member of every single individual neighborhood community in the city of austin, texas, represented by those of us who stand here today. And I do believe that those individuals probably have done more in the past 40 years than any of us standing here could have claimed to have done and that's where our strength is and that's where our thanks needs to go. Thank you.

>> Thank you, joanne. [Applause].

>> Centered over here, we are all going to have to stand ... [Laughter]

>> way, way in. Joanne.,

[13:07:42]

[Laughter] . [Applause].

[13:09:54]

>> Yeah. Duty calls. Nice to see you. Thank you.

>> Cole: Tonight I have a pleasure to providing a proclamation to one of the prestigious women organizations in the united states and throughout the world, links incorporated has over 270 chapters and over 12,000 members and they are celebrating their 25th year anniversary. Links performs social service projects, the kids cafe nutrition program at campbell elementary and normal elementary schools and they also have a self-esteem plan culled i know I can at norman elementary school and they give scholarships to aisd students, houston full lot tillitson students and I will ask them to come up where I read this, be it known where the town lake chapter of the links was chartered in 1988 to promote and engage in civic, commercial and intercultural activities for the improvement of quality of life for minorities in the round rock williamson county area, and whereas, in the ensuing 25 years, the chapter has flourished in an atmosphere of friendship and love and has provided service to campbell and norman elementary schools and del valle high school, capital area foot bank and a legacy of giving, and whereas the links also

supports university united methodist church, carrot tops of austin, ronald mcdonald house, houston tillotson, aisd, acc and other groups and we are pleased to recognize this fine organization as they celebrate their 25th anniversary of fellowship and service. I, therefore, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim may 9, 2013 as the town lake chapter of links day. Thank you. Do you want to say a few words?
[13:12:55]

>> Thank you, mayor pro tem sheryl cole. We are delighted to be here to accept this proclamation on behalf of our members. When our organization started 25 years ago, it was because african-american women wanted to contribute to central texas. And we are so delighted that we have had an opportunity to partner with a number of major organizations in the city and that we have been of service. It is our privilege and our honor to be active in this wonderful community that we call home and we look forward to serving another 25 years. So thank you for this proclamation.

>> Cole: You are welcome. [Applause]. Tillotson, I 6
[13:25:08]

>> we are out of recess, and mr. Guernsey, whenever you are ready, we can begin with our consent, zoning items and public hearings.

>> Thank you, mayor and council, I will go through our 2:00 o'clock zoning and restricted covenant items, these were the items where the public hearings are closed. I will do those first and then to the 2:00 o'clock neighborhood plan amendment item where the public hearings are open. First item I would like to offer for consent, this is an applicant request for postponement to may 23rd and item number 52. This is case c14-20110141 for the property located at 8107 peaceful hill lane and 501 heboch lane and, again, it is a postponement by the applicant to may 23rd. Item number 53 is c14-2012-0028, 301 and 311 colorado street and 114 west third street and approval of second and third reading of zoning change request to central business district -- central urban district or cbd core zoning to change the condition of zoning and we have that third reading on consent. Would you like me to continue going through the.

>> Mayor leffingwell: Yes.

>> Guernsey: Item number 54, case c14-2008-0159. This is a restricted covenant amendment for the property located at 301 and 311 colorado street and 114 west 3rd street. And this is to approve that covenant amendment. It is recommended to you by the planning commission. Item number 55, case npa-2012-0016.01. Sh for the property located at 1141 shady lane. Staff is requesting a postponement of this item to your june 6 agenda. Item number 56 is c814-2012-0128. Sh for the property located at 1411 shady lane. Staff is requesting a postponement to this item to your june 6 agenda. Item 5 c814-2012-0085, estancia hill on country pud, this is at 12814 interstate highway 35 south and f.M.1327 and ih-35 service road sob and this is to resume the pud district zoning and the planning and platting commission was to grant the pud district zoning with conditions and this is ready for consent approval only for first reading in item number 57. Excuse me. Item number 58 is case npa-2013-0025.03, this is property located in the oak hill combined neighborhood planning area for the property located at 5801 travels cook road and this is to zone the property to neighborhood mixed use lane use. Planning commission recommendation is to grant the neighborhood mixed use land use on the recommendation on the p flum and the next is c14-2013- 0010 for travis cook road and this is for lo-mu-np combined district zoning and the minuting commission was to grant the zoning and this is for consent

approval on all three readings. Case 60, c14-2012 stories-0162, property located at 2301 riddle road. This is to zone the property and to limit it off lo district zoning and the zoning and planning commission was to grant limited office or lo zoning and it is for consent approval on all thbee readings, number 61 is case 2013-0011, for 1100 arabian trail, staff requesting postponement to your june 6 agenda. Number 62, case c14-2013-0024 for the property located at 4439 east sh71, unit b, this is to zone the property to public or p district zoning. The zoning and planning commission's recommendation is to grant the p district zoning. This is ready for consent approval on all three readings, item number 63, case c14-2013-0026 for the property located at 8301 spring dame road and this is to

-- springdale road and to limit it to allied district zoningsing and the recommendation was to grant limited industrial service and conditional overlay or laci for redistrict zoning and ready for consent and approval all three readings.

[13:30:26]

>> Mayor leffingwell: Number 60, you proposed consent on all three readings?

>> Guernsey: Item number 60 proposed for consent on all three readings.

>> Mayor leffingwell: I am showing one speaker on that.

>> Guernsey: Okay.

>> Mayor leffingwell: Is gene robertson here. Do you want to speak on that item? Not right now. Are you going to want to speak? Okay. We will pull that off of consent.

>> Guernsey: Very good. Let me go back. I think we are on item 63, case c14-2013-0026, for the property located at 8301 springdale road. This is zoning property to limit industrial service for allied district zones and the planning commission is to approve the li-co combine district zoning and it is ready for consent on all three readings, case 64 is c14-2013 e 0030, for 8509 f.M.969 to change the zoning to gr district zoning and the recommendation was to grant gr-co combined district zoning and this is trade difor consent approval on all three readings, case 65, c14-2013-0036 for the property locat 13620-13700 north f.M.620 road. This is to zone the property to communitymer shall mixed use

-- commercial mixed use, gr-mu-co, and the grant was to approve gr-mu-co zoning and this is ready for approval on all three readings, case 66, c14-2013-0038 for property located at 10811d-k ranch road to zone the property to single family residence standard lot or sf2 zone and the planning commission

--

[13:32:27]

>> mayor leffingwell: We have a speaker on this, too. Is jim ben bennett here. Do you want to pull it off so you can speak?

>> Guernsey: He is the applicant. He is in favor.

>> Mayor leffingwell: That's why I asked. [Laughter]

>> Guernsey: This is recommended by the zoning and platting commission for the approve for the sf district 2 zoning and it is ready for all three readings.

>> Mayor leffingwell: Okay. So the consent agenda for zoning cases is to postpone item 52 until may 23rd, to close

-- to approve on second and third readings item number 53, to close the public hearing and approve item number 54, to postpone items 55 and 56 until june 6, to close the public hearing and approve on first reading only item 57, to close the public hearing and approve on all three

readings items 58 and 59, to postpone items 61 until June 6 to close the public hearing and approve on all three readings items 62, 63, 64, 65, and 66. Is that right? I will entertain a motion to approve

-- council member Spelman moves to approve the consent agenda. Second by the mayor pro tem. Council member Tovo.

>> Tovo: Mayor, I would like the record to reflect my vote against 57. I think that

-- you know, at this point, without pulling it off for discussion, I really haven't had a chance to look at the cost benefit analysis and I would like the opportunity to do that with staff. We had extensive discussion about this last summer when it was going through the initial annexation stages and I've had an opportunity to meet with the developers and they have supplied me with numbers but, again, I feel like I need to sit down with staff and see whether the cost benefit analysis looks good for the city. Because of the interest of time, because it is a long evening ahead of us, I am not going to pull it from the consent agenda but I am going to vote against it until it's in the best financial interest of the city.

[13:34:47]

>> Mayor Leffingwell: And this is first reading only, so you will have the opportunity. Show council member Tovo voting no on 57. All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0.

>> Mayor, I understand the citizen who had signed up on item number 60 is not

-- does not wish to speak. And I could offer that for consent if you would like to consider that.

>> Mayor Leffingwell: On all three?

>> Guernsey: All three readings.

>> Mayor Leffingwell: I will entertain a motion to approve item 6 to close public hearing and approve that.

>> Cole: So moved.

>> Mayor Leffingwell: Mayor pro tem moves and council member Spelman seconds. All those in favor, say "aye." Opposed say no, passes on a vote of 7-0. Now I think we can go through our public hearings. Most of them being

--

>> Guernsey: Mayor, if you like, we can run through all of the postponements and I do have one withdrawal on one of your public hearings. Would you like me to go through that?

>> Mayor Leffingwell: Yes, sorry, go ahead.

>> Guernsey: Item 68 was with regards to the decision on an outdoor music venue permit for the Tanyas particular and they have withdrawn that and no action taken on that.

>> Mayor Leffingwell: Item 6.

>> Guernsey: Sixty-eight and item 69 staff is asking for postponement on this item regard to parking. Regulations to your May 23rd agenda, that's item 69. Item number 70 is an item related to short-term rentals. Staff is requesting a postponement of this item to your May 23rd agenda. Item number 71 is related to Rainey Street and subdistrict of the water front overlay district and staff is requesting a postponement of this item to your May 23rd agenda. Item number 72, I will skip, because I understand we will probably have the hearing on that item. Item number 73, this is in regards to subchapter E, our commercial design standards and staff is requesting a postponement of this item to your May 23rd agenda and then items 74, 75, 76, 77, 78, 79, 80, 81, 82, and 83, these relate to the residential code regarding visibility standards, the international residential code 2012, noise mitigation as it relates to our building code. 2012 international

building code, the electrical code, the uniform mechanical code, the uniform plumbing code, international property maintenance code, trash energy conservation code and the international fire code and staff is requesting a postponement of all of these items, items 74 through 83 to your may 23rd agenda. And that concludes the items I can offer for postponement.

[13:38:05]

>> Mayor leffingwell: You didn't mention 67?

>> Guernsey: I

-- I am not aware of that particular item, mayor. I am responsible for the other items on your public hearing list, but not that particular one, so ...

>> Mayor leffingwell: Is there anybody on staff that can speak for that item? Is it to be postponed by staff, also?

>> Eline hard, financial services, some of the previous documentation we got this morning said this item would be postponed until may 23rd from texas gas rate case.

>> Mayor leffingwell: All right. And then our consent agenda for our public hearing items is to postpone items 67 until may 23rd, to withdraw item 68, postpone item 69 and 70 and 71 until may 23rd. To postpone items 73 through 83 until may 23rd.

>> Martinez: Move approval.

>> Mayor leffingwell: Council member moves approval. Second by council member spelman. Discussion? All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0.

>> Mayor, item 72 is a public hearing which we have no speakers. If you like, we can quickly dispense of that. Item 72, conduct a public hearing.

>> Mayor leffingwell: That was a hint, wasn't it?

>> A friendly suggestion. Item 72, conduct a public hearing relating to authorization of public improvement district for hill country project, approximately 600-acres in southern travis county west of ih-35 south and approximately 8/10 of a mile south of intersection highway 35 south of onion creek parkway. There will be a detailed relation to the details of pid but it requires a public hearing. I am available for any questions.

[13:40:29]

>> Mayor leffingwell: Is there anybody here who would like to speak on this item, item number 72? If not, I will entertain a motion to close the public hearing. Mayor pro tem moves approval. Second by council member spelman. All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0.

>> Thank you. So this brings us to item number 30. And we have one speaker signed up. Curt kadena mitchell. Is curt kadena mitchell here?

>> Sorry, we thought it would take longer

-- is the time already? I am curt, I am a member of wild fire unitarian universalist church and a member of interfaith. I am here to talk in favor of this resolution. As many of you recall, last fall austin interfaith held a civic academy on homelessness and affordable housing. Mayor pro tem cole and council member riley and council member tovo and council member martinez attended that event, where we really laid out our commitment to affordable housing in the city which is rapidly losing its affordability. The reason this issue is important to us because we support a broad-based mechanism of funding of affordable housing in this city, and what we learned recently from staff is we have lost out on nearly \$20 million that could have potentially be invested in affordable housing because we have been circumventing the density bonus program

which is already passed through the downtown plan although it has not been codified. We strongly support that codification as soon as possible and eliminating these loopholes that have allowed us to miss out on the opportunity to invest in affordable housing in our city. In my own congregation, I have a member who is applying to foundation communities this week because she needs affordable housing and they are desperately in need and other organizations are in need of the funds that the city needs to make available and we are losing out on these funds because of these loopholes so I want you to know at the last city wide leaders meeting, Austin Interfaith endorsed density bonus program codification and eliminating any loopholes that allow developers to get around it and we will be organizing in our institutions, having a city wide civic academy in June and do pulpit announcements and sign-ups for getting down to city hall for my zoning case that is going to be used to circumvent this program, so if this doesn't pass today, you will see us down here for any zoning case that would allow you to use your discretionary zoning authority to require participation if you don't eliminate this and we will of course be letting all of the members of our institutions know which council members are using their December Craig's their zoning authority to support affordable housing and which council members are not, so we just want to let you know, this is a new position for us. We have endorsed it city wide as an organization and should this not pass tonight, we will be here for future zoning cases. Thank you. [13:44:08]

>> Mayor Leffingwell: I have a question for you.

>> Number.

>> Mayor Leffingwell: Council member Martinez wants to know if it passes, will you not come?

[Laughter]

>> if this passes

-- if this passes tonight and witness the density bonus is codified and we no longer have to worry about this being circumvented, then we have happy to let this be done administratively without us needing to leave our families and other busy schedules.

>> Mayor Leffingwell: We didn't any way mean that as a

-- you didn't mean that in any way as a threat, did you? [Laughter]

>> well, organized people is power, so I will leave it at that. No, but we will be here for any case.

>> Mayor Leffingwell: Okay. I have a question for you. My question is, you made the statement that we lost \$20 million over the last few months because people

--

>> I made.

>> Mayor Leffingwell: Let me finish the question.

>> Sure.

>> Mayor Leffingwell: Because people used CBD

-- or secure zoning and I would ask you this. What makes you so sure that these applicants for cure zoning would have built the additional height and far that they did build because they were able to get that zoning if they had not been able to get that zoning? I think the true answer is you don't know because that money might not have been there anyway. There may have been some portion of it, but to make the flat statement that we lost \$20 million is just simply inaccurate. Incorrect.

>> Well, Mayor Leffingwell, we have had almost the exact same conversation related to economic incentive deals and whether we require companies to pay a living wage and whether or

not they would come and we have had this conversation before of not knowing and playing a guessing game but as it relates to this issue, the reality is the downtown plan passed by council so we already passed.

>> Mayor leffingwell: I don't think you understood what I said. What I said was, you are the assumption that the (who didn't get the cure zoning would have built and complied with some kind of density bonus program anyway and what I am telling you is, you have no way of knowing that. This person may have said, okay, if I have to pay these penalties for building additional density, I am not going to build it at all. I might be a part of it. I won't build it at all. That is something you have to consider and I don't think at this point you have thought about.
[13:46:34]

>> Well, at this point, our leaders have done extensive research actions with developers, with affordable housing experts, with city staffers. We have done a lot of researchers before we took a position on this issue. There has been a lot of debate.

>> Mayor leffingwell: Unless you can offer facts in evidence to support your position, I would assert that you have no way of knowing that. Unless you can tell me that this case or that case, a person who made that application would have done it anyway and paid the penalty, unless you can attest to that, you are making a support position and that's all a supposition and that's all I have to say.

>> You passed the downtown density plan and we believe

--

>> mayor leffingwell: That is not part of my question.

>> You passed that and we believe you lost out on what could have been potentially \$20 million and

--

>> mayor leffingwell: I am saying you believe it. You believe it but you don't know it.

>> Those are our facts.

>> Mayor leffingwell: You state it as a fact when it's

--

>> mayor leffingwell: All right. Step back and we will see that you are not willing to listen to anybody. All right. So those are all of the speakers that we have. I will

-- it is time for discussion or a motion on this item.

>> Second.

>> Mayor leffingwell: Council member morrison moves approval. Council member spelman seconds. And I am just going to say that I am going to vote against this because I do believe that there are lots of good uses for the cure zoning. Typically what we have done is approve cure zoning for hotels which paid many other taxes, depending on the amount of density, far and height that these buildings have and I think this will be a discouraging density in the downtown area, and i don't think it will necessarily

-- it necessarily means that we will be able to get additional revenue as the young man just asserted. It just hopes that we will. And I think one

-- that's why we have it as an option so we can consider whether cure zoning is appropriate for certain construction project or not. Council member morrison.

[13:48:50]

>> Morrison: I just want to briefly make a comment. I am glad to
-- that we have the opportunity to take action, to move forward with what we have adopted in the downtown plan and just as an aside, I want to say good work to david mitchell and ask you to convey to your leadership and to your congregations, I really appreciate the work that you all have done and I really appreciate the broad thinking that you're looking at, in terms of what are the elements to make a strong community. I know that you focused on economic incentives and, you know, and construction wages and things like that, and
-- and it's just really powerful to know you are looking at the bigger picture, including housing, so thank you for your work.

>> Mayor leffingwell: Any other comments? All those in favor, say "aye." Council member tovo.

>> Tovo: Yes, I wanted to make one

-- I am very glad we are here making this step today because I think this is a discussion that has been going on a long time, long enough but we have talked about it so often, i don't feel a need to make a lot of comments, except that I agree with the premise of mr. Kay dana mitchells in that remaining cure as an option, we have lost out on affordable housing density bonus provisions and i understand your point, mayor, that some of those developers may not have chosen not to seek additional density but certainly some of them probably would have so i think it is a very appropriate step of affordable housing. I notice very important to all of us and we need to use the existing tools we have in our tool box to encourage both the preservation of affordable housing and the construction of new affordable housing.

>> Mayor leffingwell: All those in favor, say "aye." Opposed say no. No. That passes on a vote of 6-1 with yours truly voting no. [Applause].

[13:51:02]

>> Sorry, waiting for my computer to come back up to speed here. I guess it's

>> I guess it's not going to.

>> Mayor, it is not going to show anything on the speaker sign-up because the public hearings are closed.

>> Mayor leffingwell: No, i am trying to get back to the agenda and I can't do that, either.

>> Martinez: I think erica knows where we are. [Laughter]

>> mayor leffingwell: We are on

-- on the non-consent items on the riverside corridor plan. Okay. Can I get somebody up here to try the figure out what's ...

>> Good evening, mayor and council members. My name is eric leek and i am with the planning and review department, good to see everyone again. We have been through this trail before so we will try to be short and sweet. Today we are sort of doing the same thing we have done a couple of other times. This time on third reading. You will be voting on the east riverside corridor regulating plan and the associated neighborhood plan amendments and rezoning cases. Your backup includes a motion sheet, which includes a list of contested properties on the second page. There is also a summary of your actions from the march 7 and april 25th meetings that also includes planning commission and staff recommended amendments. The first motion will be adoption of the erc regulating plan on third reading with amendments, so the summary sheet of amendments is before you, and now would be the time to discuss any other potential amendments to that, and i have a couple of images that may be relevant, depending on what you

want to discuss.

[13:53:25]

>> Mayor leffingwell: Council member morrison.

>> Morrison: I mentioned on tuesday I was going to make an amendment regarding how the famu is managed through the ordinance versus the regulating plan that will add a change to that on a regular ba time, i would like to go

-- if it is time, I would like to go ahead on the motion.

>> Mayor leffingwell: Just a second, council member marstaller.

>> Martinez: Before we start making motions, I want to ask, if someone has a site plans that filed right now, would they have to comply with what is adopted tonight or with current existing regulations that are today?

>> Guernsey: Huh gonzales

>> if they have a site plan, they can build that, their site plan would not delay their ability to get a building permit as long as the site plan is alive. If they pursue the building permit to its ends, basically, to a certificate occupancy, that use can remain and continue regardless of the regulation that is up here this evening.

>> Martinez: So obviously we know that we've had certain issues with site plan approvals in terms of timeliness. What if there's not a site plan that's been approved but a site plan application has been made?

>> Guernsey: If the application has been made and submitted before the regulations go into effect, they are bound by those rules and ordinances that

--

>> Martinez: You say those. What is "those"?

>> Guernsey: The riverside regulations f the site plan is filed before that set of regulations are put into effect, then we would apply the regulations the date the application is filed. Again, so long as they are pursued that they meet the approval of permits based on the site.

[13:55:26]

>> So any site plan application that's been submitted prior to adoption of third reading tonight would

-- the rules that would apply would be prior to tonight?

>> Guernsey: Because they have submitted the application.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: I am thinking that council member morrison is going to make an amendment and she needs a main motion to attach her amendment to.

>> Mayor leffingwell: We are considering motion number one, too.

>> Spelman: I put on the table approval of motion number one so we have something to make amendments on.

>> Mayor leffingwell: That is motion number one which is item number 39, motion to approve on third reading by council member morrison. And I will second that motion.

>> [Indiscernible]

>> mayor leffingwell: Huh?

>> [Indiscernible].

>> Mayor leffingwell: I thought you made the motion? [Indiscernible - no mic]

>> mayor leffingwell: Right. And that's what@ I just said and
-- okay, council member spelman made the motion and I second. So council member morrison.
>> Morrison: Thank you, mayor, I will pass this out again. I think I shared it last time
-- at the work session. Could you pass that this down? And this is language that staff had noticed
that to change the famlu which we planned to do on some kind of regular basis, the way it is
crafted now, we would actually have to have a code amendment to change the regulation
-- regulatory plan, and the motion that i have changes it so it is set by ordinance and I have the
language for the
-- for the clerk. So I would like to make that motion, make those changes.
>> Cole: I have a question of staff.
>> Mayor leffingwell: Mayor pro tem. Wait just a second. You made a motion to amend motion
number 1.
[13:57:34]

>> Morrison: That's correct.
>> Mayor leffingwell: With this.
>> Morrison: That's correct.
>> Mayor leffingwell: Is there a second for that? Second by council member tovo. Mayor pro
tem.
>> Cole: Erica, help me understand the language, that I understand, staff is supporting here, in
terms of the change
-- potential change to the fee in lieu?
>> Well, the point is basically just that. Right now
-- the way we had it originally, the fee in lieu was actually mentioned in the regulating plan,
which means that when we recalibrated that in lieu fee we would actually have to go through a
code amendment process, which is long and
--
>> cumbersome.
>> Cumbersome and so if we want to be able to recalibrate it on a regular basis, it would
simplify the process, to be able to update it by ordinance.
>> Cole: Thank you.
>> Morrison: And if I may, the language here basically, instead of referring to a subsection of
the plan, where it's being set, it just refers to by ordinance.
>> Cole: I understand, that is just mechanical, ease the burden. I will be supporting the motion.
So any other questions on this amendment? I was taking a quick look at it. All those in favor, say
"aye." Aye. Opposed say no. So that amendment, it passes on 7-0 and that is added to motion
number 1. Are there any other suggestions or amendments? Council member tovo.
>> Tovo: Yes. I have one that I would like propose related to drive through facilities. Is this the
appropriate time do so ms. League?
>> Yes.
>> Tovo: This is almost identical to a motion that was made at our last meeting with the
exception that city legal has made a few
-- and I should say was an amendment proposed by council member morrison at the last meeting,
I thought I had reintroduce today because I know we have been discussing extensive will with
citizens and hearing feedback from our community and we talked about it as recently as tuesday
so i would say there are a few additional changes that city legal has made and perhaps they might

explain what some of the adjustments were, just
-- there were a few adjustments to make it slightly clearer. I can identify what they are.
Compared to last time ... There are a few different
-- let's see. It says become subject to
-- this was new language, article 7, nonconforming use and that was all added. The last sentence
of that was added, with reference to article 7, all uses are governed by group d regulations
prescribed by section 25-2-947. That was original
-- I mean, additional and then there are additions in the next. I am not sure whether it's critical to
go through them. I am happy to talk about what is slightly different from the amendment that
was proposed last time.
[14:00:47]

[One moment, please, for change in captioners]

>> yes.
>> And they will not be subject to any kind of time period under which they would have to go
away. They would continue to exist in perpetuity. That is correct, as nonconforming uses.
>> And do we have other nonconforming uses throughout the city.
>> We have a lot, especially after design standards was passed.
>> Tovo: And so when a standard like that is passed the existing businesses that are there that
are no longer in compliance with the new codes get to stay, they get to remain in business
--
>> and they also under our code have
-- they get to be repaired. There are some modifications that can be made. Our code is very
specific about the things that
-- the things that can be made. They can do something. They don't have to stay in the same state
they're in when the regulations are passed.
>> And
-- on tuesday we talked about what constitutes an amendment. If I were in a drive-through
-- if I run a drive-through restaurant and I decide I don't want to be in business, and I put the
drive-through up for sale but there's a period of time it's not in use. Does that constitute
abandonment?
[14:02:52]

>> That by itself probably wouldn't. Abandonment, we would want to see that the window was
closed and that perhaps the pavement was torn up, clear
-- because when you have abandonment you need two things. You need a clear intent to abandon
and you need some act or failure to act that supports that intent, and just selling it wouldn't be a
clear indication that the owner intended to abandon the use.
>> Tovo: Thank you for that clarification. I appreciate it. So they'll have the ability to sell it to
another owner
--
>> yes.
>>
-- Who could then continue to use that
-- operate that site of the drive through.
>> Yes.

>> We've had a lot of discussion on it so I'll leave it there but to say this was the goal to create pedestrian friendly. That supports the mission and the work that the stakeholders brought to the process. So that's my mission.

>> Mayor leffingwell: While you're up there I have a question for you. I have letters from three different banks, from the omnibank, from the first state bank of central texas and from horizon bank. They all say essentially the same thing, and basically they're talking about the five-year period after which the zoning is changed

-- after which these drive throughs become nonconforming uses, and basically they say that although they could continue to stay there, it presents a lot of financial difficulties for the owner of the property. Now

-- and I'll just

-- I'm not going to read the whole letter, but it says, if the zoning is changed to make the use nonconforming, the loan is considered to be a nonmonetary default status or nonperforming. Nonmonetary default can be a reason for accelerating or requiring the borrower to immediately pay back the loan. In other words, if a property owner has a drive-through that becomes nonconforming, by passing

-- by making it become nonconforming you may put him out of business. Getting his loan called, him or her, and I just don't think that's right. I think 17 odd drive-throughs that exist here now, and they would all be subject to potentially being put out of business if council passes this amendment, which has not been offered yet. Do you have any comment on that?

[14:05:28]

>> Mayor and council, greg guernsey. Yes, I have a couple different comments. First, there are many noncomplying structures in the city, whether you don't comply with it

-- the design standards that might be called out in the east riverside plan, we have many buildings that don't meet our parking regulations from 1955, they don't meet our compatibility standards all along lamar, burnet road. I think the bank of america building

--

>> mayor leffingwell: Mr. Gu mr. Gu ernsey, I understand that. What I'm saying is that if these folks have a loan on that property and they're

-- their zoning is changed so that they are now nonconforming, according to these bankers their loan is subject to be called.

>> I understand what you're saying and what I'm saying is that there are many structures that are in a similar situation throughout the city of austin because they don't have parking, they don't meet compatibility standards. The bank of america building right downtown does not comply with our capital view corridor regulations. And I understand there are buildings that are refinanced, loans that are given. Then we have uses that are annexed into the city of austin that become upon annexation, if they're commercial buildings, may become nonconforming uses simply because of those standards

--

>> mayor leffingwell: Are you saying

-- are you saying what I said is not true?

>> No

--

>> mayor leffingwell: That the banker would not

-- could not consider them to be

-- their loans to be able to be called at the point that they were
-- zoning was not nonconforming? Because I know everything you're telling me. I know there are nonconforming uses around the city.

>> Sure.

>> Mayor leffingwell: What I'm trying to tell you is that if we make a use nonconforming, that they're subject to having their loans called and they're subject to being put out of business as a result of this zoning.

>> And that's very much a possibility, and each loan probably will situation is unique and I don't have experience in every loan. When we down-zone many hundreds of properties in east austin from industrial down to cs-mu, for instance, there might have been businesses that served alcohol that may have been manufacturing that may have been affected with the down zoning. They may have had a similar situation. But I'm telling you that situations where municipalities change zoning regulations that may affect a use or may affect a standard, that may limit affectheight or more parking, there are instances like this that come up every day. In this circumstance, yes, it may have an affect on these property owners but i guess what I'm saying is it's not necessarily unique to these properties. In fact, it's something that happens throughout most cities in texas and I would hazard probably in most cities in the united states where there's some change in a regulation that may affect use

--

[14:08:17]

>> mayor leffingwell: So it's okay, then? It's okay in this instance

--

>> well, that's up to you in this situation. What I'm telling you

--

>> mayor leffingwell: I really didn't need all of that explanation.

>> I wanted to be clear and try to give you as much information as I could, that there are circumstances that are unique to each property and each loan, but there are regulations that we have that put other properties within austin in a similar situation.

>> Tovo: Mayor?

>> Mayor leffingwell: Council member tovo.

>> Tovo: I just want to be sure I understand and I'm extrapolating correctly from what you've just said, mr. Guernsey. Thank you for providing that information because I was a little surprised. I didn't see all three of the letters I received, at least one of them but I know there are many uses across the city that are nonconforming or as you said are out of compliance with our regulations. I was a little surprised to see that I but it sounds like

-- my guess is that at least some of the kinds of examples you've talked about would have loans. Would you say that's true some some of the businesses that are now

--

>> guernsey: I can't say for certain but I'm sure that there are buildings that have probably been renovated since the '50s that are built along lamar, burnet road, that don't have parking that require parking today or that there are other buildings that don't comply with compatibility standards because they were too tall, they're too close to residential prerties, that have probably been renovated along those same roadways. There are buildings that we annex certainly into the city that may come in with an interim designation of residential that may actually be commercial and we allow people to come in to ask and seek rezoning to make them conforming. But upon

annexation that those buildings are certainly taken in.

-- Every time we bring properties into the city. I think there are situations we've down zoned in the past in east austin, where there may have been businesses affected. Probably most of those were single-family homes in east austin that probably were down zoned from the industrial category but there were certainly businesses dispersed among those.

[14:10:28]

>> Tovo: So the situation we're contemplating tonight, that may potentially render some businesses nonconforming or noncomplying is not unique, it's not unique to austin, as you said, it's not unique to other municipalities in our state as well as across the united states.

>> That's true.

>> Tovo: [Inaudible] variance with current standards. Thank you. Thank you for that information. I think it's very valuable.

>> Mayor?

>> Mayor leffingwell: Council member spelman.

>> Spelman: Let me ask a question similar to the mayors but not quite as pointed. Would it be safe to say that if a nonconforming use does put some additional strain on a business owner?

>> Yes.

>> Spelman: Could you explain how?

>> If a

-- if you had a nonconforming use and it was completely destroyed under user regulations you may actually have to bring that bui into compliance with our code. We're fairly generous with a building in most regards. I think it's up to 90% of the building could actually be destroyed and you could still come back and reestablish that use. But a nonconforming use, and noncomplying structures are actually expand their uses under our nonconforming use and noncomplying regulations, so it's not that a structure can't maintain that use in the future. Theoretically the uses could continue in perpetuity so long ag the expansions

-- as the expansions were in conformance with the regulations. You could do extensive remodels to those structures and continue that business. You could sell the business to a similar use of that structure, but if that use were to be abandoned, let's say a new tenant moved in, it would no longer be maybe a service station but it turned into a bank, you may not necessarily be permitted to go back to the service station. If there were situations where there were setbacks required for a particular use and the building was torn down voluntarily, a new building put back or building altered, you may not be able to put back that noncomplying structure in the same location, even though you may be able to expand that under noncomplying regulations.

[14:12:47]

>> So there's some level of remodeling, certainly some level

-- if the building were destroyed.

>> That's true, and to the extent there's ever doubt in anyone's mind, whether it's the owner or someone lending money on the project, to be compliant 100% with a code that's current is probably a better state than ever being in a state where you might be noncomplying with some aspect, whether it's a use or a setback or height or parking.

>> Spelman: Thank you. .

>> Mayor leffingwell: Council member riley.

>> First procedural. Has there been a second on this amendment?

>> Mayor leffingwell: If there hasn't, council member morrison seconds.

>> Riley: I would like to offer what I hope might be considered a friendly amendment, and that arises from a concern that mr. Guernsey identified, and that is that making a structure nonconforming

-- or rather noncomplying doesn't necessarily mean that it will go away. It may well stay there in perpetuity, and that doesn't really do anything to advance the goals of this

-- of the corridor plan. What I would offer is that rather than making all drive-throughs noncomplying structures, that we allow structures and drive-throughs to remain and be considered complying with the plan if they redesign

-- if they

-- if they redesign and comply with the east riverside corridor design standards, and what that would do is, for those that are concerned about being nonconforming structures, it would give them an incentive to go ahead and come into compliance with the design standards, which would meet the goals of the corridor. You would get

-- you would generally move the buildings up to the street, put the drive-throughs in back and that would move us in the direction of a more pedestrian oriented environment, even though

-- even while respecting the concerns about drive-throughs. And so my hope is that that would be -- that would serve the goals the

-- the spirit of the amendment while still recognizing that some of the business owners have concerns about noncomplying and would it would give them an incentive to come in conformance with the design standards that we have under consideration today.

[14:15:07]

>> Mayor leffingwell: So is that accepted by the maker and the second of the motion?

>> Cole: Are you going to ask a question?

>> Mayor leffingwell: Who's the maker of the amendment? Council member tovo?

>> Tovo: I am, and I don't understand it and it looks like council member morrison has a question about it too

--

>> riley: Rather than saying all drive-throughs are noncomplying, you can actually be a drive-through in compliance

-- you wouldn't be considered noncomplying if you redesign in compliance with the east riverside corridor design standards. There are drive-throughs standards that would allow drive throughs to stay that would be consistent with the plan. Erica, maybe you could speak to that.

Right now are there design standards under which drive-throughs could be allowed in the corridor? Are there drive

-- are there standards that would provide for more pedestrian character for a drive through?

>> So what council adopted on first and second readings basically said that drive-throughs that are existing right now could

-- could keep their drive-throughs, and if they remodeled, then they'd be subject to, you know, all erc design standards. So if they tore down their building and wanted to keep a drive-through, the new building would have to have the drive-through be at the side or the back of the property in conformance with the design standards. So

-- so I'm going to attempt to see how

-- how these two might work together, and please correct me if I'm wrong, but I think what you're saying is that you would add some sort of a time period

-- are you saying that within that time period the drive-through
-- the buildings would have to come into compliance with

--

[14:17:14]

>> mayor leffingwell: Let me say, I didn't understand that by council member riley
-- I understood his suggested amendment to be that they would not be nonconforming at any
-- they could continue in use as nonconforming uses, nonconforming drives, unless they upgrade
to meet design standards, and then they would be conforming at that point.

>> Okay. So that would be a change from the first amendment.

>> Mayor leffingwell: Now, that's amendment to council member tovo's amendment. It's a
friendly amendment to council member tovo's amendment, which would basically make all
existing existing driveways nonconforming in five years.

>> Right, but my point is it would

-- if you were attempting to do that, you would need to sort of change what council has already
adopted on first and second reading.

>> Mayor leffingwell: Well, yeah, that's what the amendment does, is it changes what we've
passed on previous readings.

>> Have you thought of language that might work for this?

>> Riley: I have not come up with language on that yet. No, but it's a fairly straightforward idea.
It would just say that if you redesign in compliance with the design standards, then you would
remain as a compliant structure rather than noncompliant.

>> Okay, about you that means that you'd

-- but that means that you'd actually be taking out of earlier approved motions the grandfathering
of drive throughs somehow. It's d 1.

>> Riley: But that's what the main amendment would do.

>> Mayor leffingwell: The main amendment removes the grandfathering.

>> Right, after

-- after a period of time, but I think the question is what

-- what would happen in the meantime. You're actually saying that they'd all immediately go into
non-

--

[14:19:21]

>> riley: No, no, no. The only change

-- the original amendment would remain in effect. It's just that whether

-- whether in the first five years or at any point down the road, if you go ahead and redesign in
compliance with the design standards, then you're no longer nonconforming

-- or noncomplying.

>> Mayor?

>> Mayor leffingwell: I want to ask someone, because this is kind of a significant change from
what we passed on second reading. Someone representing the stakeholder interest to comment on
what this would involve. I'm not sure I understand. Council member morrison, if you don't mind,
I would like to

-- well, if you want to go ahead and accept it or not accept it that's fine. But in order for me to
understand it better I think I need to ask this question.

>> Spelman: Mayor, I'll second it for purposes of discussion. I expect it will not be accepted as a friendly amendment.

>> Mayor leffingwell: Well, it

-- we had a second, i believe, council member

-- council member riley offered the friendly amendment to council member tovo and council member morrison.

>> Spelman: That's correct, so this would be an amendment to an amendment, and since it is

-- friend friendly ly amendment.

>> Spelman: Well, it hasn't been accepted as friendly yet so we can continue talking about it, mayor. I'm suggesting I can second the amendment to the amendment.

>> Mayor leffingwell: If she wants to make it a proposal for an amendment. Do you want to make it a proposal? All right, secked by council sec

-- secondedby council member spelman. I would now like to ask a question because I'm not sure how this required redesign

-- what effect that has if there's

-- you know, if there's space to do this redesign or what kind of funds it would require. So could you

-- are you representing the stakeholder interest? Come on up and try to answer that question.

[14:21:29]

>> Riley: And mayor?

>> Mayor leffingwell: Council member riley.

>> Riley: I believe mr. Guernsey might have something to say.

>> Mayor leffingwell: I think I want to hear from the stakeholder

-- I think I've heard enough from mr. Guernsey for a little while now. So could you come on up and answer that question?

>> Mayor and council, cis myers representing the drive-throughs and I have with me one of the drive through owners, mike benton who owns the driver side

-- the drive-through on riverside. I'm really confused about where we are, and we have not seen the amendment that's been presented, so i don't know what it says. I will say, if it still has the five-year time period in there, it's problematic, as we've mentioned before. Mr. Benton just spent \$750,000 last month remodeling the drive-through on riverside, and so to ask him to move that drive through in five years, or have it be noncompliant seems to be a little unfair and not reasonable. But other than that, not having seen it I can't speak to what it does or what council member riley's amendment does or what council member spelman did. So I hate

--

>> mayor leffingwell: Okay. Thank you. So we have an amendment to the amendment that's on the floor right now.

>> The question is

--

>> mayor leffingwell: Which is

--

>> cole: Go ahead.

>> Mayor leffingwell: Council member

-- it's actually council member riley's amendment, not yours, council member tovo, seconded by council member spelman.

>> Riley: Mayor?

>> Mayor leffingwell: Council member riley.

>> Riley: Could I ask a question of mr. Guernsey?

>> Mayor leffingwell: Sure.

>> Riley: Greg, could you shed any light on the question of exactly how we could enable drive-throughs to remain in compliance if they redesign in compliance with the court ordered design standards?

[14:23:29]

>> And as I was listening, it sounded like they might be noncomplying at the beginning. If they were to tear down there might be the concern of getting a conditional use permit but I think what you're saying is, no, they wouldn't need a conditional use permit if there was an existing fast-food restaurant with a drive-through and they voluntarily came in, you're saying there's no conditional use permit. It would be an administrative process. It would not go to any board, commission or council for approval, and that it could be approved for a redesigned facility, all administrative, at any point in time. I think that's what you were trying to say, if they wanted to bring it in compliance. So there's never a possibility in the future that somehow, the commission, they appeal to you and go through a big process, if I follow the rules and staff would approve it administratively and we'd move on down the road, and that would provide a lot more certainty than being in a noncomplying status. It would be them bringing it into complying status but without the stigma of getting a conditional use permit.

>> Riley: That's right. That's exactly what I was suggesting.

>> Cole: Mayor, I have a question of mr. Riley.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Between mr. Riley and mr. Guernsey, we have some language in front of us that I don't know we can actually use but I'd like to get a sense of what staff would actually go and write down to effectuate your amendment. Would it or would it not have any five-year limitations?

>> Riley: No.

>> Cole: No five-year limitations. Okay. And would you simply look at the language that's on our yellow sheet? And I'm going to try to read what I think you're saying or if you can do it it would be good. I think you're saying a property containing a drive-through facility, legally constructed or permitted, would initially be noncomplying but would not need to seek a conditional use permit upon redesign but would go through that process through administrative procedures. Can you help us with this, greg?

[14:25:54]

>> Mayor leffingwell: That's not what I understood, but

--

>> cole: Can you help us with this, greg? I just need to get some language understanding what this does.

>> And I don't have the benefit of the yellow sheet.

>> Cole: Well, I don't think the yellow sheet helps much once I really started looking at it.

>> Mayor leffingwell: So while we're looking at this, council member riley

-- council member riley? I'd just ask you to explain your amendment in your words one more time.

>> Riley: Okay. It's a very simple concept. Instead of saying that all drive throughs become nonconforming after five years, we would say that, yes, the drive-throughs that exist today, the traditional drive throughs you typically see on east riverside those would become nonconforming after five years. However, if someone comes in and redesigns the drive-through in compliance with the east riverside corridor design standards, which entail moving the driveway out of the front and to the side or back, that would be noncompliant. That would be considered a compliant structure and that could occur in three years, five years, seven years, ten years, or even longer, done at any time and through the administrative process and it would be then a compliant structure.

>> Mayor Leffingwell: So what I think Mayor Pro Tem was saying was she wondered about the five-year period. The five-year period still applies.

[14:27:55]

>> Riley: Yes.

>> Mayor Leffingwell: But after that time you can administratively come into compliance by complying with design standards?

>> Riley: That's correct.

>> Mayor Leffingwell: So I guess my concern would be you're still imposing a potential burden on the property owner. In five years his or her property becomes noncomplying unless they go out and spend the money

-- a lot of money, assuming they could even do it, assuming that the property layout permits them to do it, you're going to ask them to put up all this money for a redesign, a reconstruction. Otherwise they stand to be in default on their existing loan.

>> Spelman: Mayor?

>> Mayor Leffingwell: Council member Spelman.

>> Spelman: A question for Council member Riley. It's my understanding that the only way you could be a conforming use, the only way you'd conform with design standards in the corridor and be a drive-through is to have the driveway not be on riverside but be on either a back or side location. Is that right?

>> Riley: That's my understanding, yes.

>> Spelman: Okay. It's also my best guess, and I think I could probably get a certainty on this from Ms. Myers or somebody else that could speak for the drive-through owners, that there are some properties that do not have access to a driveway on the side or the back and could only get a drive-through access from the front on riverside. Is that accurate, sis?

>> [Inaudible]

>> Mayor Leffingwell: Come on up.

>> Yes, sir, that would be right. There are some, for example, the top [inaudible] has an entrance off a side street, BUT the McDonald's comes off the main street.

>> Spelman: Are there landlocked properties that would not have access to a side or back entrance?

[14:29:55]

>> My

-- you know, I don't represent all 17 drive throughs my

-- my three it would have access. They would be fine.

>> Do you know of any others that would be landlocked

--

>> I can't speak to that.

>> Spelman: Thank you, ma'am.

>> But I would say say the five-year thing, council member riley, is the problem for somebody who just spent \$750,000 to have to meet that five-year goal. I wonder if we could change that time?

>> Riley: Mayor, if I may respond.

>> Mayor leffingwell: Council member riley.

>> The five-year thing was not in my amendment. The five-year thing was in the original motion, and we're still

-- this is an amendment to

-- to council member tovo's member, and five years was in council member tovo's amendment.

>> Cole: I have a question.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Would you consider in your amendment that council member spelman seconded having a ten-year period as opposed to a five-year period?

>> Mayor leffingwell: So you're

--

>> cole: I'm asking that question. I guess that would be a friendly amendment, because we did hear testimony about the difficulty after five years of being able to remodel if they already invested significant funds of money, so I'm trying to ask if you would consider a longer time period.

>> Mayor leffingwell: As council member riley said, that's not really in his amendment. The five-year period is talked about in the original amendment by council member tovo. Council member riley's amendment only says when the property becomes nonconforming they can restore it as a conforming use by doing abc.

>> Riley: Mayor, if I might suggest, maybe if we just considered this amendment and then we could

-- we could consider other amendments to the

-- council member tovo's amendment, including any amendments regarding the five-year amendment. We can change the five years to ten years or whatever, or we could offer an amendment on that issue, but that really is not the issue addressed by

--

[14:32:07]

>> mayor leffingwell: Yeah, I think that's right. Actually I think what we should be doing is considering council member tovo's amendment and then if it passes it becomes effective. If it doesn't, we could accept another amendment. And that's what you're suggesting for the third go-around. I mean, we could go on forever amending, amending

-- amending the amendment to amend the amendment and so forth.

>> Riley: I was just suggesting that we consider this

-- my amendment to council member tovo's amendment and then consider any other amendments to council member tovo's amendments including any amendments regarding the term after which [inaudible] become noncompliant.

>> Mayor leffingwell: Do you understand that? We want to vote on council member riley's amendment to the amendment.

>> Cole: First.

>> Mayor leffingwell: Council member morrison.

>> Morrison: Thank you. I'm still trying to make sure I understand council member riley's comments. So would it be correct to say that the only amendment you're making is you're adding the ability to come into conformance by

-- so everything stays the same except for if you happen to be nonconforming for the reason, whatever the reason is, as specified in the original amendment, you can come into conformance by adhering to

-- by redesigning to adhere to the design standards?

>> Riley: That's right.

>> Morrison: So that's why what you're saying doesn't have anything to do one way or another with the five-year.

>> Riley: That's right.

>> Morrison: It's just adding another thing.

>> Riley: Whenever.

>> Morrison: So

--

>> I may have potential language. Do you want

--

>> morrison: All right.

>> Do you want to hear what it is?

>> Morrison: That might be helpful.

>> So

-- so starting kind of halfway through the paragraph of tovo's amendment, the number of drive through bays or lanes can only be increased from the number existing as of the above date using the conditional use permit. Then it starts, five years after the erc regulation plan adoption date all existing drive through facilities will be subject to article 7 and article 8 and then we could add "unless the drive-through facilities are brought into conformance with the erc design standards, something along the lines, in which case they would continue to be complying structures or something like that.

[14:34:36]

>> Morrison: And conforming.

>> Complying and conforming. Does that get at what you're thinking?

>> Riley: Yes.

>> Mayor leffingwell: Council member martinez.

>> Martinez: I have a question, I don't know if it goes to mr. Guernsey or a legal question for ms. Thomas. We keep using the terms complying and conforming interchangeably. Somebody needs to explain to me what the material difference is btween complying and conforming, because I don't believe anybody is using it in the right context.

>> The nonconforming use deals with the actual use, is that use permitted conditional or prohibited. Noncomplying speaks to a design element, maybe where it is too high, too tall, close to setbacks, not compliant with the parking. But the use is not the issue. It's more of a design issue. So you could have a nonconforming drive through where it is a conditional use or is it prohibited or permitted, and then you could say where the drive-through is, is it on the side or on the front? That would be a noncomplying situation with respect to front, side, rear.

>> Martinez: And so based on the letter from the financial institution, mayor, is there a material difference between complying and conforming as it relates to a call on a potential debt that a business may have?

>> Mayor leffingwell: Let me look at it. Actually the language i quoted was nonconforming. If the zoning is changed to make the use nonconforming, it's considering to be a nonmonetary default status or a nonperforming loan. I don't think I ever used the word compliance.

>> Martinez: I agree, but others have and that's why i was trying to get some clarification. So in that instance, or in an instance, a noncomplying business could still obtain debt and do improvements and just remain noncomplying and not be affected by a financial institution triggering a call on that debt? Assumi assumi ng that the design was changed and the construction was done to make it conform to design standards, is what

--

[14:36:54]

>> martinez: And obviously

--

>> mayor leffingwell: Then it would be

-- once it becomes complying, it would no longer be nonconforming.

>> Martinez: That's what aim saying, I believe this to be true because we have subchapter e that applies to east riverside and if someone just spent \$750,000 on a business they're noncompliant, so I'm trying to determine

--

>> mayor leffingwell: No.

>> Martinez: Noncompliant with subchapter e, they're not nonconforming and there's a big difference. Because your letter says nonconforming would trigger a call on debt.

>> Mayor leffingwell: Could trigger.

>> Martinez: And people have been saying complying and conforming interchangeably tonight, so I'm just trying to get a clarification. Council member riley's

-- his attempt is for folks in a nonconforming situation that may have a debt being called. He's simply trying to provide them with an opportunity to come into conformity via redesign and not have the debt call triggered.

>> Mayor leffingwell: Right. I think everybody understands that. That's what I understood his amendment to be from the very beginning. My concern is are they going to be able to comply? Are many of these businesses

-- if they don't have a side entrance or a back entrance available to their property, they can't comply. We don't know the answer to that question, but certainly with 17 or 18 existing drive-throughs, I think there's a pretty good probably there's a few that can't comply. So potentially put fewer people out of business if they

-- if you allow the compliance. I'm not going

-- I'm not going to support that amendment either. I think the way it exists right now without the amendment or the amendment to the amendment, the way it exists right now is the way I would prefer to see it done, what we passed on first and second readings.

[14:38:58]

>> Mayor?

>> Mayor leffingwell: Council member morrison.

>> Morrison: I have a ques council member riley. In the
-- okay. Just to remember
-- just to recall originally what came to us from the staff recommendation was the drive-throughs are prohibited, and then this language on the yellow sheets that's underlined, that's what was added on second reading. And I just want to call your attention to that one line that was added at that point and get your thoughts on this and how it plays with your amendment, and that is the number of drive-through bays or lanes can only be increased from the number existing as of the date
-- above date, using the conditional use permit. So could the number of lanes be added in trying to come into conformance or anything?
>> Riley: Mayor, if I may respond.
>> Mayor leffingwell: Council member riley.
>> Riley: No, I don't think they could. If you have two lanes in your drive-through and you want to come into compliance through a redesign in conformance with the design standards, then you have to stick with the same number of lanes. Now, if you wanted to have an increased number of lanes, you could go through a conditional use permit process and comply with the design standards, and that would be possible, but
-- but the only way you can get
-- you can keep your drive-through administratively would be
-- and be conforming would be to come into compliance with design standards.
>> Morrison: And if I may, ms. Leak, is that your understanding when you were just telling us what you thought that language was, that to come into compliance would mean to move existing lanes off of
-- off of riverside?
>> Yes, that would be my understanding.
>> Morrison: Okay.
>> Cole: I have a question, mayor, procedurally.
>> Mayor leffingwell: Mayor pro tem.
[14:41:01]

>> Cole: I would like to support the amendment with council member riley's amendment to the amendment if we were considering letting property to remain grandfathered for a period of ten years as opposed to five years, and I would like to do that without putting five years on the table first as opposed to simply putting ten years on the table.
>> Mayor leffingwell: Mayor pro tem, you would have that opportunity after we vote on this
--
>> cole: So I will not be supporting the the item as written with the five-year limitation if the mayor makes us not take the amendment, but I guess I'm offering that as a friendly amendment.
>> Mayor leffingwell: Council member martin.
>> Martinez: Mayor pro tem, if we pass this amendment to the amendment I will happily support what you just said when we get to the amendment.
>> Cole: Okay, thank you.
>> Mayor leffingwell: Well, before we vote I'm just going to say I'm going to vote no on the amendment to the amendment and on the amendment and
-- and on the motion, because I believe that the riverside corridor is a place where there is a place for drive-through businesses. It is not in downtown austin. It's primarily a residential area and the

area surrounding is primarily --i have a difficult time imagining in my mind someone strolling down the sidewalk and going into the bank or going into the restaurant and going by and stopping by their cleaners and strolling back home. People are going to want -- people that live in that area are going to want to patronize businesses, whether it be food, whether it be dry cleaning, pharmacies, banks, that have those facilities available to them. So I think basically the whole thing is a business killer. It's a development killer. And so I'm not going to support it. All in favor of the motion
-- council member spelman.
[14:43:23]

>> Spelman: I asked ms. Myers the answer to this question and she didn't have an answer so mist leak, perhaps you do. Are you familiar with any drive through facilities
-- 17 of them, right? 17 or 19.
>> Spelman: 17 or 19. That's good enough for me right now. This time of night for certain.
Looking
-- thinking through those in your mind that you can visualize, any of these landlocked a have no access to a driveway other than on riverside or do all of them have alternative access and could conceivably be in conformance with mr. Riley's suggestion?
>> Well, actually to clarify they could have a driveway from riverside to their site. It's just that they couldn't have the drive-through lane be between their building and riverside drive, and
-- well, basically between their building and the sidewalk, so
-- so all of the drive
-- basically all properties have to be able to have access to some public streets, so
--
>> spelman: Right.
>> So it's not the access to the site that's an issue, but there are probably some buildings where it would be difficult to just redesign kind of the building as is and not have the drive-through
-- the drive-through lane be between the sidewalk and the building.
>> Spelman: All right. Let me
-- I think I know what you're getting at but let me be simpler so we can both be more direct here. Would all existing drive-throughs be able somehow to come into compliance with design standards?
>> Yes, but it might require
--
>> spelman: Reconstruction facility.
>> It might require reconstruction.
>> Spelman: Okay. Thank you.
>> Mayor leffingwell: Any other comments? Okay. We're voting on council member riley's amendment to the amendment. All in favor say aye.
[14:45:24]

>> Aye.
>> Mayor leffingwell: Opposed say no. No. That passes on a vote of 6-1. I voted no. And that brings us to the amended amendment, which is council member tovo's amendment, which [inaudible] council member riley.
>> Cole: Now it's my turn. Council member tovo, I would like to make a friendly amendment to

your amendment to change the number of years that a drive-through remains grandfathered from five to ten years.

>> Mayor leffingwell: That is offered as a friendly amendment?

>> Cole: Yes, it is.

>> Mayor leffingwell: Council member tovo, do you accept that?

>> Tovo: Would you consider seven? Split the difference?

>> Mayor leffingwell: Just say yes or no.

>> Cole: Yes.

>> Tovo: Okay. I'll accept that.

>> Mayor leffingwell: Council member tovo accepts seven years. Accepted by council member morrison. So now we're voting on the second amendment to the amendment, which is to extend the period at which property becomes nonconforming to seven years instead of five.

>> Tovo: No, I accepted it as

--

--

>> mayor leffingwell: All right. So that's accepted. Anything else? All right. All in favor of the motion to amend motion no.1. Say aye.

>> Aye.

>> Mayor leffingwell: Opposed say no.

>> No.

>> Mayor leffingwell: No. That passes on a vote of 5-2 with council member martinez and myself voting no. So the amendment is adopted and so now we're voting on the motion as amended. Let me just say I'm going to vote no on the motion. I'm going to vote no because -- for the reasons previously stated, that i believe this is bad policy for the city. It's a severe potential disruption on development and business in the riverside corridor, and it will cause property owners there significant hardship.

[14:47:49]

>> Mayor?

>> Mayor leffingwell: Council member spelman.

>> I have another amendment which has nothing to do with the thing on this yellow sheet, which is why I've been saving it.

>> Mayor leffingwell: Okay.

>> Spelman: Unfortunately it does have to do with a particular class of drive-throughs.

>> Mayor leffingwell: This is amendment to your amendment?

>> To my motion. Amended the motion successfully. We now have another amendment to my motion, and that would be to do it with service stations, which i perceive are a class of drive-throughs. Is that accurate? Or are they separate facilities?

>> They are actually a use and they are not considered a drive-through.

>> That eliminates a couple of words in my suggestion. I'm happy to do that. I propose this -- proposed this last time, it went down to a 3-3 vote and I'm putting it forward in hopes now we have 7 and not 6 that somehow the tie might be broken one way or the other. The original proposal I made two weeks ago is we set forward two types of service stations, those which are in existence now and those which are not. And the service stations existing prior to may 9, 2013, meaning tonight, will be permitted

-- would be permitted in cmu, nmu and imu zones only and the service stations not existing prior

to tonight be prohibited in the east riverside corridor.

>> Mayor leffingwell: All right. Council member spelman, are you proposing that as a friendly amendment to yourself?

>> I'm proposing it as a formal amendment

--

>> mayor leffingwell: Is there a second for that? Is there a second for that proposed amendment?

>> Spelman: Let me argue on behalf of this, if I might. We're trying to come up with a

--

>> mayor leffingwell: I second for purposes of discussion.

>> Spelman: Thank you. Mayor, are you in favor of my motion, sir?

>> Mayor leffingwell: Pardon?

>> May I discuss?

>> Mayor leffingwell: Yes.

>> Spelman: Although we are looking for a new urbanist highly walkable environment, it is true that we're going

-- it's going to be a while, it's going to be a few years before we are in a position to have this be as dense and walkable as we'd like. In the meantime most of those lanes of traffic on riverside will not be used by bus rapid transit, by express bus. It will be a minimum of ten years, I suspect, before we get any kind of train, light rail, urban rail, commuter rail or gondola on east riverside. Actually I think gondolas might work here, but it would have

-- we won't have them in the next ten years. As a result of that, people are going to be driving and they're going to need to put gas in their car. I can't think of a better place to put gas in their car along riverside corridor than on riverside itself because if we don't allow it there but on side streets, i think gas stations on side streets are more intrusive and a worse idea than having them on main streets. It doesn't contribute to walkability. It is a blight on new urbanism, I understand, but as a vast majority of people for the foreseeable future. So I think we ought to permit them as uses.

[14:51:01]

>> Riley: Could I offer what I

--

>> cole: No. No. [Laughter]

>> riley: What I hope might be considered a friendly amendment. This is really very straightforward.

>> Spelman: Don't push your luck, riley.

>> Cole: You always say that. [Laughter]

>> riley: And this relates to the application of the commercial design standards to service stations. Right now, under the commercial design standards the mere fact that a business is a service station is itself considered a justification for alternative compliance, with the designs standards. And I would offer a friendly amendment to simply say that the use

-- the use itself would not be considered a justification for alternative compliance with design standards.

>> Spelman: That is friendly.

>> Riley: It is possible to do a service station that is in compliance with the design standards, and i think we should expect that of service stations, especially new service stations in the east riverside corridor.

>> Spelman: I would

-- in addition to accepting that as a friendly amendment, may I also say I'm not suggesting here any waiver of design criteria, only they be permitted uses.

>> Riley: Right.

>> Mayor leffingwell: Okay. So I haven't accepted it yet, because I'm not sure i understand what you're saying. Will you explain it to me again? You want

-- you want to have new

-- have old service

-- or old service station uses be compliant

-- forced to become compliant? Is that it?

>> Riley: The principal application of this

-- the easiest way to think of it is in regard to new service station, a new service station coming in would be expected to comply with the design standards and the mere fact that it's a service station would not be considered a justification for alternative compliance. There is some

-- there are some instances in which it might apply to older service stations. For instance, an older service

-- if it were to undertake extensive remodel or replacement, then i believe they would also be expected to comply with the design standards and in that case similarly the mere fact it's a service station should not be considered a basis for alternative

--

[14:53:14]

>> mayor leffingwell: So your amendment pertains only to new service station?

>> Riley: No, no, no there would be some instances

-- if you've got an older service station, there are some times when the design standards would come into play, and I'm looking to erica for input on this, but I believe that's the case. If you're undertaking extensive remodeling of a service station there might be circumstances where you would be expected to comply with the design standards.

>> Yes, depending on the extent of the remodel, it could trigger a partial compliance.

>> Riley: Right. And all I'm saying is the fact that it's a service station should not be considered a basis for alternative compliance.

>> Mayor leffingwell: Okay. I'll accept that. So are we ready to vote on council member spelman's amendment?

>> Spelman: Let me mention one more thing. I'm seeing people who aren't yet convinced. One big difference between pretty much every other use and the corridor and a gas station is the gas station have underground storage tanks. Removal of underground storage tanks is a dangerous and dirty condition and may create a brownfield. It's extremely likely that gas stations will have good reasons to maintain their status as gas stations just because digging a new underground storage tank is expensive and dig up a current underground storage tank is also expensive. So I expect for the foreseeable future they can be expected to maintain their current use.P

>> mayor leffingwell: All in favor

-- council member morrison.

>> Morrison: I'm going to maintain my no vote against this, and I think, you know, we do need to be taking the long view. I appreciate that things are going to take a while, but as you just mentioned, which prompted me to make this comment, the ones that are there are going to stay there for a while, and i don't think we need to encourage increasing the inventory of gas stations

at this point.

>> Spelman: They're prohibited under my amendment.

>> Morrison: New ones?

[14:55:15]

>> Spelman: New ones would be prohibited.

>> Morrison: I'm sorry. Okay. So I thought that they would be

-- I was looking at your amendment from last time. I didn't hear carefully enough, because

-- could you repeat it, then?

>> Spelman: Yes, the new gas

-- current gas stations

--

>> morrison: You know what? Could we hear what's in the code first, in the plan first? I'm sorry.

>> So at present service stations are prohibited in the corridor mixed use conditional and industrial mixed use and neighborhood mixed use and prohibited in urban residential and neighborhood residential.

>> Morrison: You're going to have to say that again but slowly, sorry.

>> Morrison: Prohibited in corridor mixed use.

>> Morrison: Okay, corridor.

>> Conditional and industrial mixed use and neighborhood mixed use and prohibited as well in urban residential and neighborhood residential.

>> Morrison: I'm going to need a minute to look at my

-- I had a chart from last time and I thought you were just repeating what you did last time. So if you could repeat, in corridor mixed use it will

-- it's going to go from prohibited to

--

>> spelman: Permitted.

>> Morrison: To permitted. You will be allowing new ones.

>> But that was just existing as of today.

>> If it's exists. So we avoid the nonconforming use issue. For existing service stations, so long as the existing service station is in a corridor mixed use, neighborhood mixed use or industrial mixed use zone.

>> But it's basically

-- it's grandfathering existing service station

--

[14:57:15]

>> spelman: I was trying to avoid the g word but there you go. If you're currently doing business as a gas station in either

-- any of those three uses you would be permitted to continue doing business, no nonconformance issues there.

>> Which is probably where all the service stations are now. I'd have to go back and look but more than likely they're in all the districts now.

>> Knew service stations would not be permitted in the east riverside corridor, period.

>> Morrison: Okay.

>> Spelman: No waiver of design criteria. And no citation of use as a justification for alternative

equivalent compliance for council member riley's suggestion.

>> Morrison: And so they remain prohibited in urban and neighborhood residential, in your -- in your

--

>> Spelman: If they don't exist now they never would.

>> Spelman: But if they do exist now.

>> Spelman: They would continue. They could continue.

>> Morrison: So basically they're prohibited everywhere and we allow grandfathering and we just don't call them nonconforming.

>> Spelman: That's correct, yes.

>> Morrison: Which

-- and the difference is that right now they're conditional and industrial and neighborhood mixed use. So new ones could come into play. The way it is now.

>> The way it is now

--

>> morrison: So you're

-- so what's the rationale for what you're doing?

>> Spelman: We've got a bunch that are currently in use. They'll continue in use, and rather than making these nonconforming uses and putting additional restraints on trade of gas station which I believe will be necessary for the foreseeable future and very expensive and perhaps environmentally difficult for us to remove, let's just let them stay in business but not let any new ones in.

>> Morrison: Okay, but we aren't going to drive anyone out of business if they're grandfathered.

>> Well, if they become nonconform ant

--

>> it would be nonconforming uses

--

[14:59:17]

>> yes, they would become

-- if we went with the regulating plan as originally drafted, they would become nonconforming uses.

>> Morrison: So this

-- would you say it's accurate to say this merely keeps them from falling into that nonconforming bucket?

>> Spelman: In exchange for which, council member morrison, you get no new gas stations.

>> Morrison: I see your point now. I took a while to understand it.

>> Spelman: Sorry, I didn't explain it very clearly.

>> Mayor leffingwell: All in favor of council member spelman's amendment. Council member tovo?

>> Tovo: I have one last question. Is there any measurable advantages that a structure would get other than those we've already talked about from being

-- from not being noncomplying? They don't get any ability to develop beyond

-- well, would they, actually? Maybe that's a question for you. Do they have additional ability to renovate and expand that they would not have

-- they will, right?

>> They would, I believe. If they were legal conforming uses, then they could be renovated, updated, whatever as long as they complied with the design standards.

>> Mayor leffingwell: Just like any other use.

>> Yes.

>> Tovo: But if they are

-- if they become nonconforming uses, then they're somewhat limited. They still have the ability to update and renovate, they still have the ability to remain, they have the ability to update and renovate and even expand, it's just a more limited ability of expansion; is that correct?

>> Correct. [One moment, please, for change in captioners.]

[15:01:39]

>> Guernsey: Existing gas stations, basically permitted, where they wouldn't fall into this status of nonconforming use, so they wouldn't be hindered by the nonconforming use of the code depend organize tennessee classification and the zoning district you are in, they would have to comply with the design regulations that are in the standards proposed, so I can go through maybe generally what would apply for a nonconforming use.

>> Tovo: I understand that's not what spelman is suggesting, so I am trying to compare what he is suggesting to what is currently in the plan because currently they would end up being nonconforming, the existing gas stations would be nonconforming, so they would be limited in their ability to expand. What council member spelman has compose

-- now I am confusing you two

-- what council member spelman has proposed sort of removes the limits.

>> Guernsey: I am going to assume that most of the districts that would be along riverside are at least gr zoning for their type of use. Under the section of the code, 252946, determination of nonconforming use regulations for commercial uses that are allowed in a commercial district, other than office lo or go, most of those would fall under a category d, and there is four classifications of nonconforming uses. Under category d. Basically it goes through and allows the nonconforming use to be replaced by another nonconforming use if approved by your land use commission, in this case, the planning commission, after they do a certain review and then d actually takes you to the next category group c that basically allows a person continue nonconforming use and maintain the structure, a person may expand the portion of the structure or site used for nonconforming use, except that the expansion of the portion of the site must be on the same lot and may only occur one time and that the expansion may not increase the off street parking requirement more than 120% of what was required for that use on march 1st of 1984 or date the use became noncomplying, so, in essence, I could expand, i guess if I had a gas station convenience store, I could expand the convenience store, as long as the parking didn't exceed the 120% threshold level, I am able to do that. If the structure is used for a use that is nonconforming conditional use, and that use

-- the land use commission has not approved it, then a person may not

-- may annually expand out more than 20% of the value of that structure, so if it is a conditional use, there is an additional burden for those that they can't expand more than 20% of the value structure to enlarge and structurally alter it. The main point of this is, yes, you can expand, as long as your parking doesn't increase 120% of what was there before.

[15:04:57]

>> Tovo: Is there parking requirements for gas station bays?

>> Guernsey: There is queuing for the and then there is parking requirement for the actual parking itself.

>> Tovo: But the bays? If I have a gas station could I tear down the convenience store and put in 15 bays as a nonconforming use?

>> Guernsey: If you were actually tearing down the structure completely, then it would lose that nonconforming use status. If you were to remodel and do additions, you could maintain that nonconforming use status but basically if you were to scrape the site completely, typically in nonconforming use would actually go away. Under commercial design standards, there is actually a provision that allows service stations and restaurants to go back to being rebuilt all new walls, roofs, more energy efficiency, and they can go right back and basically avoid commercial design standard requirements for the placement of the building, the size of the building, but they would have to meet some of the standards for glazing of what the exterior looks like and provide some landscaping.

>> Tovo: Okay. So council member spelman, i want to understand a little bit about the exchange you were talking about. So in

-- so the shift from last time to this time and from what's in the plan to now is that you are

-- you are prohibiting what would currently be

-- in the plan it would prohibit gas stations

-- new service stations in cmu urban residential neighborhood residential. Now they will also be prohibited in mixed use

-- i am sorry, industrial mixed use and neighborhood mixed use.

>> Correct.

>> Tovo: So adding two more categories

--

[15:07:00]

>> Spelman: Prohibition.

>> Mayor leffingwell: Council member do you want to answer that.

>> Tovo: In which new service stations would be prohibited. However, in the areas where they would other

-- the existing ones will no longer be nonconforming so they can expand well beyond what we would currently keep our nonconforming structures subject to. Is that about right?

>> Spelman: Yes, if you are in existence now. You could stay in existence, you would not be nonconforming and, therefore, the

-- they could expand further than they otherwise would be allowed to expand. In exchange, no new gas stations.

>> Tovo: Okay.

>> May I add a comment? So in the regulating plan, as written, it says, may n fuel more than 8 vehicles at one time. I don't know if you want to consider something along the lines of, could not add additional fuel pumps to what's existing now?

>> Spelman: What is the

-- i am sorry, what is the existing

--

>> the existing says may not fuel more than 8 vehicles at one time and I have no idea how many fuel pumps current gas stations have, but in terms of the expansion issue, I mean

--

>> Spelman: That would put a limit on the amount of expansion if we've already got an 8 fuel pump limit right now.

>> Yes, yeah, so you could either leave that in place or say that they couldn't add additional fuel pumps.

>> Spelman: I am comfortable with the limit

-- the current limit on the expansion that we have already of 8 cars at a time.

>> Tovo: Mayor.

>> Mayor leffingwell: Council member approve.

>> Tovo: Ms. Leak, do I

-- if there is no other adjustment to the amendment, will that 8 stay in place?

>> That's my understanding.

>> Tovo: Thanks.

[15:09:04]

>> Mayor leffingwell: So the only change this amendment makes is to basically grandfather a service station uses in cmu and mn marks, in addition to imu, correct? That's really kind of simple. Council member morrison.

>> Morrison: It is my understanding that it also does not allow new ones in industrial and neighborhood mixed use. Whereas currently in the plan, they are allowed conditionally. Mayor leffingwell: Yes, I have the sheet in front of me.

>> Morrison: Well, you were just doing a summary. I want to make sure i understood.

>> Mayor leffingwell: All right. Are we ready to vote on this amendment? All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. And so now I think we are back to the motion number 1, as amended. Ready to vote on motion 1. Does anybody want an explanation of what's in it now? [Laughter] so I think we just covered this amendment. The other amendment that we did basically delays nonconforming status until 7 years instead of 5 years, and makes a property owner have the ability, if he can, to avoid nonconforming status with -- by redesigning his drive throughs. All in favor of the main motion, say aye.

>> Aye.

>> Opposed say no. No. So that passes on a vote of 6-1 and I voted no.

[15:11:08]

>> Guernsey: Mayor. That was noncomplying?

>> Mayor leffingwell: Tell me what you are talking about.

>> Guernsey: Guernsey again and I apologize. I understood you were saying nonconforming use and what i understood earlier is the uses would always bal be be allowed for the ones who already have a drive through, the nonconforming, after 7 years, the use would still be permitted

--

>> mayor leffingwell: I don't think I used the word "noncomplying." What I mean is after 7 years, a property could become nonconforming but they could avoid that by complying with design standards.

>> Guernsey: That's correct. So the use would continue to be a use that's allowed and would only be nonconforming with respect to where the drive through might be located.

>> Mayor leffingwell: But it would not be nonconforming?

>> Guernsey: No

-- what i understood is that the

--

>> mayor leffingwell: I was assuming that unless they complied, it would be nonconforming for 7 years.

>> Guernsey: The use as i understood it that was offered by council member riley was actually the use that would be able to continue. It would only be noncomplying with respect to the design where that drive through is located. For instance, the drive through is in the front, it would be noncomplying but the use would still be allowed. Even after the 7-year period, if they want to come in and redesign it, they would lose that noncomplying status and actually be conforming and could then enjoy that conforming status of perpetuity.

>> Morrison: Mayor.

>> Mayor leffingwell: Mr. Guernsey, I thought i understood it perfectly until you just explained it but the way I understand it after 7 years property either has to comply with design standards or it becomes nonconforming. Is that incorrect or correct?

[15:13:15]

>> Guernsey: That's exactly what the motion was and that's exactly what you said.

>> Mayor leffingwell: Okay.

>> Guernsey: I understand there is no conditional use permits that involved either way we were discussing, so ...

>> Mayor leffingwell: Well, I think there is still a conditional use permit that was in the original motion for new driveways or additional lanes. That's not affected. So I am a little bit at a loss as to what that was all about, but anyway, motion number one is passed.

>> All right. Moving right along to motion number 2.

>> Mayor leffingwell: All right.

>> Spelman: Mayor, I move approval of motion number 2, agenda number 40.

>> Cole: Second.

>> Mayor leffingwell: Motion to approve by council member spelman. Second by mayor pro tem. And this is to approve on third reading the previous action, which was voted on 6-0. Council member tovo.

>> Tovo: I would like the record to reflect me as recused on this item, please.

>> Mayor leffingwell: Okay. Well, you can just

-- council member tovo will not vote on this item. You are recused. You are not abstaining. You are recused. Okay. So all those in favor, say "aye." Aye. Opposed say no. That passes on a vote of 6-0 with council member tovo recused as per last time. Motion number 3, agenda item 41.

>> Cole: Move approval, mayor.

>> Mayor leffingwell: Mayor pro tem moves approval. Second by council member spelman. Discussion? All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. Motion number 4, agenda item 42.

[15:15:22]

>> Tovo: Move to approve.

>> Mayor leffingwell: Council member tovo moves to approve, second by mayor pro tem.

>> Tovo: Let the record reflect my move on recus as well.

>> Mayor leffingwell: Okay, all those in favor, say "aye." Aye. It passes on 6-0 with council member tovo recused. Item number 5, agenda item 43. Is motion to approve by council member

spelman, second by council member morrison. All those in favor, say "aye." Aye. Opposed say no. That passes on a vote of 7-0. Motion 6, agenda item 44. Council member morrison moves approve. Second by council member spelman. All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. Motion number 7, pertaining to agenda item 42 for specific property. Entertain a motion on that.

>> Spelman: Move approval on its request.

>> Mayor leffingwell: That was a previous action, correct? Motion to approve by council member spelman.

>> Second.

>> Mayor leffingwell: Did i hear a second down there? I will second. All those in favor, say "aye." Aye. Opposed say no. P. Passes on a vote of 5-2, council member tovo and morrison voting no. Item number 8.

>> Move approval.

>> Mayor leffingwell: Mayor pro tem moves approval at the owner's request, second by council member spelman. Any discussion? All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. Motion number 9, pertaining to item number 43.

[15:17:38]

>> [Indiscernible]

>> mayor leffingwell: Council member spelman

-- that's a previous action, correct? Council member spelman moves approval. Is there a second.

>> Second.

>> Mayor leffingwell: Second by mayor pro tem. Discussion? All those in favor, say "aye." Aye. Opposed say no? Passes on a vote of 5-2 with council member tovo and morrison voting no. Item 10 pertaining to agenda item 43, that's motion 10, pertaining to agenda ite 43, entertain a motion on that item.

>> [Indiscernible]

>> mayor leffingwell: Council member morrison moves approval on motion number 10. Is there a second?

>> Second.

>> Mayor leffingwell: Second by council member tovo.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: May I reasonably presume that the approval is at the neighbor's request to not rezone?

>> Mayor leffingwell: Theprevious, previous action.

>> Spelman: Thank you.

>> Mayor leffingwell: Okay. All those in favor, say "aye." Opposed say no. No. That passes on a vote of 4-3 with council member riley, myself, and council member spelman voting no. Motion 11, pertaining to item 44, entertain a motion on that.

>> Move approval.

>> Mayor leffingwell: Council member spelman moves approval. Second by council member morrison. All those in favor, say "aye." Aye. Opposed say no. That passes on a vote of 7-0. Motion 10, pertaining to item 40

-- agenda item 44.

>> You mean 12?

>> Mayor leffingwell: Excuse me, 12, pertaining to agenda item 44. Council member spelman moves approval. Is there a second? Second by council member morrison. All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. Motion 13, pertaining to agenda item 44. [15:19:54]

>> Cole: Approve staff recommendation.

>> Mayor leffingwell: Mayor pro tem moves approval of the staff recommendation, and is there a second for that?

>> Second.

>> Mayor leffingwell: Second by council member martinez or riley? Riley.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Although I vote in favor of the staff recommendation twice before, I have come to the conclusion that these lots should not be zoned cmu, the current cf zoning will allow more flexibility on the six lots which are fronting on ben white not on e riverside and although they should stay on the plan and consistent to the plan to the extent possible, I am persuaded cs zoning will better serve the needs of people on ben white than forcing them into compliance with the rest of the east riverside area.

>> Mayor leffingwell: You are saying that's the owner's request.

>> Spelman: At the owner's request, it would be my preference.

>> Mayor leffingwell: Any further discussion? The motion is to approve the staff recommendation to cmu. The owner's request is to not change the zoning and to maintain the cs zoning. Correct.

>> Spelman: That's correct. They would have to meet the design requirements but they would not have a change in zoning.

>> Mayor leffingwell: I am going to agree with council member spelman on this and i am going to vote

--

>> to clarify it, they are not rezoned. They would not be subject to the erc design requirements.

>> Spelman: Could they be subject to the design requirements and still not be rezoned?

>> Mr. Guernsey, the question was whether

-- whether properties could not be rezoned but still be subject to the design requirements.

[15:22:03]

>> I am trying to

-- because the design requirements are tied to the district standard and so those district standards wouldn't necessarily apply unless they receive one of the designations of the east riverside corridor standards, so ... Although they certainly may be part of the plan area, you wouldn't necessarily apply the same restrictions, because you wouldn't know which district to look at.

>> Spelman: There is no common set of design requirement which transcends all of the districts, although they are all ct specific.

>> Guernsey: Probably ask erica, there might be some general standards that might be in a form, but the ones that are specific and unique to each subdistrict, they certainly would not apply to this tract because it is not one of the subdistrict tracts.

>> Yes, I mean each site actually has very specific design regulations tied to both the subdistrict and whatever street they face, and so I

-- I don't know from a zoning perspective how
-- how could apply the design regulations would having to be zoned etc.
>> Mayor.
>> Mayor leffingwell: Council member martinez.
>> Martinez: Greg, has there been site plans, applications filed on these properties?
>> Guernsey: That, I do not know.
>> Martinez: Can I ask the representative of these properties who is here tonight. Based on the earlier question, if site plans have been filed then it is a moot point?
>> Guernsey: That's right.
>> Martinez: Can you confirm or deny whether or not site plans have been filed?
>> Cis meyers and this is karen shelton who relates the owners
-- who represents the owners of the property and she can about you specifically.
[15:24:11]

>> There has been a site plan filed on 1b and 2b which are the two lots on corner who have made it through completeness check
-- a site plan, sorry, 12, 3b, 4b and 5b have not made it to the completeness check but they have not been filed.
>> Martinez: If they have been filed, then based on the response to my question, they would
--
>> five of the six are filed, that would be lot has not filed a site plan. And so that would, without
-- conceivably leave that one lot
-- I am not sure that one lot could be usable because the site plan is not there if it stays. Is that right, sue? Yeah. It will restrict the viability of the one lot that doesn't have a site plan.
>> Martinez: Understand. If we were to move forward with the east riverside corridor plan on five of the six lots, it wouldn't matter because there is a site plan on file.
>> Spelman: Actually
--
>> I just want to make sure, if the site plan has been through completeness check, then it is accepted, if it is through completeness check, 2 of the five are, then it has not been accepted yet so it won't enjoy the protection that i spoke of earlier. I was asking, karen, it sounds like they were submitted 2 or 3 weeks ago. I don't know what, if
-- or they have been accepted. They may actually have been accepted today or maybe accepted within, you know, ten days with the effective date of this ordinance, but
--
>> Martinez: So what you said earlier is now different?
>> Guernsey: No. When we accept an application, it goes through completeness check. Everything is there. And that's accepted for review, and so that goes in and that would have that standing and protection. If the application is incomplete, we determine it's missing something, maybe an engineer's report or missing one of the review sheets. It still stays in completeness check until that condition is satisfied. Once that has been brought in, that can be checked off and the application is accepted. So I want to make sure that that nuance is understood. If it becomes accepted within 10 days, because this ordinance wouldn't go in effect for 10 days, then that would not be an issue.
[15:26:51]

>> Mayor leffingwell: So the motion on the table is for staff request right now, and any more discussion? I voted no last time. I am going to vote no again this time.

>> Martinez: And I will be joining you, mayor.

>> Mayor leffingwell: All in favor of the motion, say aye. Opposed say no. No. I believe that fails on a vote of 3-4 with mayor pro tem, council member spelman, myself

--

>> yeah.

>> [Indiscernible]

>> Cole: Staff recommendations.

>> Mayor leffingwell: You vote

-- so it passes on a vote of 4-3, with council member spelman, myself, and council member martinez voting no. Okay. I just thought I heard you say no. So it brings us to motion 14, agenda item 42.

>> And I have heard and i definitely want confirmation that items 14, 15, and 16 have been withdrawn

--

>> correct.

>> But we would like confirmation from the applicant.

>> Mikel meade with brown mccarroll. Those are service station properties that work directly to try to resolve the service station issue and it has been resolved so the staff recommendation, we are okay with that.

>> Mayor leffingwell: Without objection, 14, 15, 16 are withdrawn. That brings us to motion 17, the last motion relating to item 43.

>> [Indiscernible]

>> mayor leffingwell: Council member spelman moves to approve the owner's request. Is there a second? I will

-- second by council member martinez. All those in favor, say "aye."

-- Council member tovo.

[15:28:53]

>> Tovo: I just want to follow up on the issue we talked about tuesday. Is there any other resolution here that is possible of doing the part on pinik run way and the part on riverside a different way?

>> The site is 240 deep by 120 wide. I do have a map in the powerpoint if you want it, but it was also in backup and so basically to

-- to split it, it would be

-- both lots would be 120 by 120 which is really not a viable commercial lot, so i don't think that's ...

>> Tovo: Thanks. I know you gave us that information on tuesday but i didn't know if any new ideas had surfaced. Okay. Thanks.

>> Mayor leffingwell: Ready to vote on item 17. Motion to approve the owner's request. All those in favor, say "aye." Aye. Opposed say no. Council member martinez, did I get your vote? Aye. So that passes on a vote of 5-2 with council member tovo and morrison voting no.

>> [Indiscernible]

>> mayor leffingwell: Excuse me, 6-1 with council member morrison voting no. So we are

complete on that. Clerk, I believe that completes our business for the day. Is that correct?
Without objection, we stand adjourned at 9:30.